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VOL. I

WASHINGTON
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LETTER OF TRANSMITTAL.

WASHINGTON, *December 1, 1918.*

SIR: I have the honor to transmit herewith translations of important documents that have a bearing on the Honduran-Guatemalan Boundary Conference, formally opened by you on May 20, of this year, under the good offices of the Department of State, the representation of which you entrusted to me on that occasion.

I have the honor to be, sir,

Your obedient servant,

BOAZ LONG,
American Minister to Salvador,
Acting for the Mediator.

To the Honorable ROBERT LANSING,
Secretary of State,
Washington.

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INTRODUCTORY STATEMENT.

The events which transpired during the fall and winter of 1917 near the section of the territory claimed by Guatemala and Honduras threatened to bring those nations into an armed conflict.

To avert such a catastrophe, and looking to an amicable adjustment of the boundary differences between Honduras and Guatemala. the United States Government tendered its good offices as mediator and invited both Republics to send representatives to Washington in order that the issue might be discussed under the auspices of a friendly neighbor.

Both Honduras and Guatemala accepted this invitation and despatched delegates on special mission, who arrived at Washington in the spring of 1918, in May of which year the conferences were formally opened.

The important documents, bearing on the mediation, are reproduced in two volumes. Volume 1 begins with the Minutes of the Inaugural Session of the Mediation and concludes with a translation of the twenty-fifth Honduran Exhibit and an Index of the Probatory Documents submitted by the Guatemalan Delegation.

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THE MEDIATION.

Mediator: The Hon. Robert Lansing, Secretary of State.

Acting for the Mediator and Chairman of the Conferences: The Hon. Boaz Long, American Minister to Salvador.

Acting for the Mediator: The Hon. J. H. Stabler, Chief Division of Latin-American Affairs.

Secretary: Mr. William J. Kavanagh.

THE HONDURAN BOUNDARY MISSION.

Chief of mission: Dr. Policarpo Bonilla, ex-President of Honduras, with rank of E. E. and M. P. on special mission.

Secretary: Rafael H. Valle.

Attaché: Dr. Carlos Pinel.

Engineers: Medardo Zuniga; Felix Canales.

Counsel: Messrs. Root, Clark, Buckner, Howland, of New York, attorneys for the Republic of Honduras; Emory R. Buckner, Edward Schuster and Augustine P. Barranco, Esqs., of counsel.

THE GUATEMALAN BOUNDARY MISSION.

Chief of mission: Dr. Luis Toledo Herrarte, Minister for Foreign Affairs of Guatemala on special mission.

Attorneys: Dr. Marcial Prem; Dr. Manuel Echeverria Vidaurre.

Counsel: Chandler P. Anderson, Esq., of New York.

Engineers: Claudio Urrutia; Gen. Felipe Pereira.

Secretary: Mr. Sinforoso Aguilar.

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MINUTES OF THE OPENING MEETING OF THE HONDURAN-GUATEMALAN BOUNDARY CONFERENCE, MAY 20, 1918.

At 11.15 this morning the Secretary of State, accompanied by the Hon. J. H. Stabler, Chief of the Division of Latin-American Affairs of the Department of State, and by the Hon. Boaz Long, American minister to Salvador, received, in the Columbus Room of the Pan American Union, the Honduran and Guatemalan Boundary Missions, which were made up of the following persons:

The Honduran Boundary Mission: Dr. Policarpo Bonilla, ex-President of Honduras, with rank of E. E. and M. P., on special mission; Rafael H. Valle, secretary, Dr. Carlos Pinel, attaché, Messrs. Medardo Zuniga, and Felix Canales, engineers.

The Guatemalan Boundary Mission: Dr. Luis Toledo Herrarte, Minister for Foreign Affairs of Guatemala, on special mission; attorneys Dr. Marcial Prem, and Dr. Manuel Echevarria Vidaurre, engineers Mr. Claudio Urrutia and General Felipe Pereira, Mr. Sinforoso Aguilar, secretary, and Mr. Chandler P. Anderson, counsel.

Mr. John Barrett and Mr. Francisco J. Yanes, respectively Director General and Assistant Director of the Pan American Union, accepted the invitation of the Secretary of State to be present at the opening session of the conference.

The Secretary of State then proceeded to the head of the conference table. The chief of the Honduran Mission, having precedence due to his earlier arrival, arranged his colleagues along the right side of the table; the Guatemalans occupied the left.

When all were seated Mr. Lansing opened the conference and read to those present the following remarks:

"*Gentlemen of the Boundary Commission of Guatemala and Honduras:*

The assembling of commissioners from two sister Republics for the purpose of endeavoring to reach an amicable settlement of a controversy which has vexed their relations in the past is always a subject for congratulation, and particularly so at a time when the

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whole world is seething with war and when force rather than reason dominates human affairs. It is a conspicuous example of the spirit of fellowship and amity which prevails in the Americas and which is fundamental to Pan-Americanism.

I desire on behalf of this Government to express to you, Messrs. Commissioners, and through you to your Governments, the recognition of the honor which has been conferred upon the capital city of this Nation by its selection as the place of your meetings; and on my own behalf I wish to assure you that it is for me personally and as Secretary of State of the United States a pleasure as well as a privilege to bid you welcome and to declare the hope and expectation that your labors will not be in vain.

I would be wanting in frankness if I did not say to you that this Government is deeply solicitous for a complete and final adjustment of your differences. It has been, as you know, the great desire of the United States to see the Republics of this hemisphere drawn into a closer union, a union founded upon impartial justice and a sympathetic respect for the rights of others.

It is such a conference as this, inspired by the spirit of conciliation, that makes manifest to the American Republics and to all the world the sentiment which should always govern international relations. I regret to say that it has been the long and too general practice of nations to seek their own interests and to win every advantage with little regard to the justness of the claims of others, so that commissions of adjustment have frequently failed to gain that reputation for impartiality which is the highest characteristic of an international body. From such selfish motives I believe that the commissioners of the two Governments here represented will be free. Both countries can not be wholly right in their contentions. It is, therefore, your duty to approach the subject with open minds. I am sure that I voice your thought when I say that justice must be first in considering the various phases of the problem which you are called upon to solve. I can not doubt but that you will agree with me in affirming that it is better for one's country and for the world to admit an error than to strive to maintain it, whatever national advantage may be surrendered.

May I, with all respect, express the conviction that principles of justice will guide you in the right path, knowing the high sense of honor and loyalty of purpose which will pervade your councils?

You, gentlemen, who represent Guatemala and Honduras in this conference, have come here to Washington with the sincere purpose of arranging your affairs so that perfect harmony may prevail in the future relations between your two countries. I can conceive of no higher service to your Governments and to your fellow citizens than

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the removal from the field of controversy of the question which you are to consider. As one earnestly concerned in the welfare of both Republics, I will not, I trust, be misunderstood or considered to be presumptuous when I urge upon you not only the wisdom but the necessity of coming into full agreement. May I be permitted to go so far as to beseech you to forget national interest in the greater interest of international justice?

The highest encomium which can be bestowed upon any nation is that it preferred to be just above all else. May your countries be the recipients of such praise. May you, by mutual candor and fairness in dealing with the subject which is before you, give signal proof of that true sympathy and fraternity which is essentially American.

I leave you, my distinguished friends, with the thought that justice and generosity are the loftiest sentiments which can inspire mankind and that a people possessing such attributes commands the respect of the civilized world."

Their excellencies, Dr. Bonilla for Honduras, and Dr. Toledo Herrarte for Guatemala, replied in extemporaneous addresses of appropriate character setting out their appreciation for the good offices of the United States and expressing the hope that the conferences would end in a felicitous manner through reaching an agreement as to the boundary line between Honduras and Guatemala.

The Secretary of State, after requesting the members of the conference to remain seated, observed that the conference was being held under that branch of the Department of State, known as the Division of Latin American Affairs, of which the Honorable Mr. Stabler was chief and that the Honorable Boaz Long, the American minister to Salvador, now assigned to the Department of State, would act as the department's representative during the conference. Mr. Lansing then turned the meeting over to Mr. Long, who suggested that as the occasion was a purely formal one he would be pleased to call a subsequent meeting at a time convenient to Drs. Bonilla and Toledo Herrarte. Both these gentlemen agreed that 3 o'clock on Tuesday would be a convenient hour, whereupon the conference was adjourned to meet at the hour agreed upon.

MINUTES OF THE SESSION OF MAY 21.

The conference was called to meet at 3 p. m. in the Columbus Room of the Pan American Union.

Owing to the absence, however, of the chief of the Honduran Boundary Mission no session was held, and the next meeting was set for May 22, 11 a. m.

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MINUTES OF THE SESSION OF MAY 22.

Meeting called at 11 a. m. All of the members of the Honduran and Guatemalan Boundary Missions were present. The Honorable Boaz Long presided. The minutes of the last meeting were read by the secretary and adopted as read.

Dr. Policarpo Bonilla expressed regret for his late arrival at the meeting of May 21, and explained that it was due to an unfortunate combination of circumstances.

Letters of credence were exchanged and revised by the interested parties, who found them in order.

It was agreed that Mr. William J. Kavanagh would act as official secretary of the conference.

Mr. Long assured the members of the mission that he was endeavoring to engage the services of an official Spanish-English stenographer.

The question of procedure was then taken up and discussed. Dr. Bonilla suggested that the treaties relating to the boundary dispute between Honduras and Guatemala be translated into English and that the "actas" (reports) of the various Honduran-Guatemalan commissions on this question be translated also. He read certain articles to show that both parties recognized the validity of the studies of the mixed boundary commissions made in accordance with the treaty of 1895. Dr. Toledo Herrarte concurred as to translating the treaties, but thought the delay incident to translating the "actas" would be prohibitive if sessions were suspended pending conclusion of this work and proposed that the "actas" be used at will in arguments. Any difference of opinion as to translation might be cleared up by common consent later. He added that said documents could not have any official value nor be considered fundamental; in view of which he proposed that the "actas" should be used by both parties in the form which they may judge convenient in defending the interests which have been entrusted to them.

After some discussion it was mutually agreed that the treaties of 1845, 1895, and the modifications of the treaty of 1914, be translated into English and form a part of the record.

Dr. Bonilla then requested to see the memo which the representative of the Government of Guatemala had recently submitted to the Department of State. Dr. Toledo Herrarte assured the representative of Honduras that no memo of importance dealing with the boundary question had been submitted since the acceptance of the mediation, but that a confidential memo had been sent in to the department, which dealt with the interests of a private corporation and was not directly a part of the boundary dispute.

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PROCEDURE.

Mr. Long then suggested that by way of simplifying the conferences, the parties in interest each submit in writing a brief synopsis, outlining their respective pretentions and the points upon which they propose to base their arguments. This, he suggested, would perhaps eliminate some questions in which it might, by some possibility, be found that the parties were in agreement.

Dr. Toledo Herrarte proposed that this statement be a verbal one. Dr. Bonilla pointed out, however, that, in view of the fact that there was no official stenographer present [at the meetings as yet], the memoranda should be submitted in writing and thus form a part of the record. It was then mutually agreed that each side would prepare such a memorandum.

Drs. Bonilla and Toledo Herrarte promised to have the memoranda prepared for a meeting to be held on Friday, May 24, at 11 a. m.

The session was adjourned to meet at the hour proposed.

LETTER OF CREDENCE OF HIS EXCELLENCY DR. POLICARPO BONILLA.

[Translation.]

FRANCISCO BERTRAND, CONSTITUTIONAL PRESIDENT OF THE REPUBLIC OF HONDURAS.

Whereas, by an order of this date I have seen fit to appoint Señor Dr. don Policarpo Bonilla to be special plenipotentiary of this Republic to conclude with the representative that may be accredited to that effect by the Government of Guatemala, in Washington, through the mediation amicably tendered by the Government of the United States and after the proper discussion of the territorial rights of both Republics, the treaty that may be appropriate to fix the final boundary line between Honduras and Guatemala;

Therefore, I confer upon the said Señor Dr. don Policarpo Bonilla full and ample powers to conclude, as special plenipotentiary of this Republic, the treaty above referred to, subject to ratification by the National Congress. And in order that Señor Dr. don Policarpo Bonilla may accredit his official character and be recognized therein, I issue the present credentials, signed with my hand, sealed with the great seal of the Republic, and countersigned by the Secretary of State in the Department of Foreign Relations, at Tegucigalpa, this twentieth day of the month of February, one thousand nine hundred and eighteen.

(Signed) F. BERTRAND.
(Signed) MARIANO VÁSQUEZ.

(Seal of the Republic of Honduras.)

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LETTER OF CREDENCE OF HIS EXCELLENCY DR. LUIS TOLEDO HERRARTE.

[Translation.]

MANUEL ESTRADA CABRERA, CONSTITUTIONAL PRESIDENT OF THE REPUBLIC OF GUATEMALA.

Whereas the friendly mediation tendered by the Government of the United States with the object of drawing up in the city of Washington a diplomatic convention, subject to ratification by the respective Legislatures, to bring to an end the boundary dispute between Guatemala and Honduras, has been accepted;

Therefore, reposing full confidence in Señor Dr. don Luis Toledo Herrarte, Minister of Foreign Relations, I confer upon him ample and full powers to sign *ad referendum* with the delegate of Honduras the treaty and other documents relative to this matter that he may deem expedient in the interests of the nation.

Given at the National Palace of Guatemala, signed with my hand, sealed with the great seal of the Republic, and countersigned by the Secretary of State and of the Department of Gobernacion and Justice by reason of the inability of that of Foreign Relations, on this nineteenth day of the month of April, one thousand nine hundred and eighteen.

(Signed) MANUEL ESTRADA C.

(Seal of the Republic of Guatemala.)

(Seal of the Department of Gobernacion and Justice.)

J. M. REINA ANDRADE.

EXCERPTS FROM THE FIRST BOUNDARY CONVENTION BETWEEN GUATEMALA AND HONDURAS, A. D. 1845.

[Translated May 22, 1918.]

The convention signed at Guatemala City on the 19th of July, 1845, by Pedro Moline for Guatemala and Felipe Jauregui for Honduras says in the preamble:

The Free State of Honduras having commissioned near that of Guatemala Senor Lic. Felipe Jauregui for the laudable purpose of drawing still close the existing relations of friendship, and alliance which happily unite the two States, and also that of agreeing upon the means of reestablishing the union of all those which formerly composed the Central American Union by setting up a national authority which may represent them jointly abroad; the Government of Guatemala having found those dispositions of that of Honduras to be very acceptable and commendable. * * *

The boundary question is taken up in article 13 which reads as follows:

ARTICLE 13. The States of Honduras and Guatemala recognize as their common boundary that laid down for the diocese of each in the Royal Ordinance of Intendentes of 1786, and in order to fix the dividing line in a manner that

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can not be doubted the two States will appoint their commissioners in the month of December next. If these commissioners do not agree, or if the States do not agree to their decision, the question will be settled in accordance with the terms of article 8 of this treaty.

The text of article 8 is as follows:

ARTICLE 8. In the case of any cause of misunderstanding arising between the two contracting States, the aggrieved party shall make three demands upon the aggrieving party for proper satisfaction; should this fail to remove the cause of misunderstanding, each State will name those persons of whom the other State will choose one and the two chosen persons will decide the question on the strength of the documents and cases submitted by the two parties. If the arbitrators agree the contending States shall be bound by the decision, but in case of disagreement, the arbitrators will draw by lot an umpire from among those named by the two States and the decision of the umpire should be binding on the said States even though it were considered unjust by either party or also by both. In that event, the first of the contracting States, which on account of its nonconcurrence should raise arms against the other shall be responsible for the losses and injuries it may cause and its claim shall be deemed unjust.

BOUNDARY CONVENTION BETWEEN GUATEMALA AND HONDURAS SIGNED AT GUATEMALA, MARCH 1, 1895.

(Ratifications exchanged at Guatemala, January 20, 1896.)

[Translation.]

The Governments of the Republics of Guatemala and Honduras, desirous of establishing in a definitive manner the demarcation of the boundaries between both countries, which up to now has not been done, this fact giving rise to difficulties that need to be remedied in the public interest, and being desirous also that so troublesome a matter should be settled to the satisfaction of all parties with the greatest cordiality and with that deference which should exist between neighboring and friendly nations, have thought best to celebrate a convention which shall fulfill these aspirations, and have, therefore, named as their respective plenipotentiaries:

The President of Guatemala, Jorge Muñoz, his Secretary of State for Foreign Affairs; and

The President of the Republic of Honduras, Don Juan Angel Arias, his Secretary of State, and now envoy extraordinary and plenipotentiary of his Government to that of Guatemala:

Who, having examined their respective powers, have agreed on the following articles:

ARTICLE I. The Governments of Guatemala and Honduras shall name a mixed technical commission, composed of an equal number of members for each party, to study the antecedants, documents and data existing as to the limits of both Republics.

ART. II. As soon as said commission is organized, the members shall begin their studies, and may make upon the frontier all the

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surveys, operations, and works, having as a meeting place the city of Ocotepeque.

ART. III. The commission shall record the results of its studies and observations in journals that shall be written out in a book to be kept in duplicate for that purpose. If in one or more of the points on which the commission is engaged the members thereof can not agree, they shall set forth their difference of opinion in respective journals, each stating the basis of his opinion, and this being done they shall continue their study of the remaining points until completion of their work.

ART. IV. On the termination of its operations the commission shall send the volumes of journals to the respective Governments, and shall propose to them the bases which, in their opinion, should be adopted to celebrate a treaty to fix definitively the boundary line of both Republics, providing a map on which shall be traced the dividing line as they may consider it should be marked according to the result of their studies.

ART. V. In view of the bases proposed by the commission, the contending Governments shall proceed to discuss them, and to define a boundary treaty between Guatemala and Honduras. With this object both Governments shall name their representatives, who shall meet in Guatemala or Tegucigalpa at the latest 60 days after the operations of the mixed commission shall have been finished.

ART. VI. To take the necessary resolutions, the contracting Governments, after the mixed commission shall have presented their report, shall give their consideration to the observations and studies of the said commission, and to the lines marked in public documents not contradicted by others of the same nature and of greater force, giving to each the value corresponding to it according to its antiquity and juridical efficacy; the extent of the territory which formed the ancient provinces of Guatemala and Honduras at the date of their independence; the dispositions of the royal ordinance of intendants which then ruled; and, in general, all documents, maps, plans, etc., which may lead to clearing up the truth, preference being given to those which by their nature should have greater force owing to their antiquity, or being clearer, more just or impartial, or for any other such good reason according to the principles of justice.

Possession should only be considered valid so far as it is just, legal, and well founded, in conformity with general principles of equity, and with the rules of justice sanctioned by the law of nations.

ART. VII. In arriving at an agreement as to the fixing of the boundary line between Guatemala and Honduras, the respective Governments may, if they hold it to be necessary or expedient,

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adopt the system of equitable compensation, bearing in mind the rules and usages established in international practice.

ART. VIII. The dividing line between the two Republics having been definitively decided upon by the two high contracting parties, it is here and now decided that the national properties which shall remain on one or the other side of it shall belong respectively to the Republic in whose territory they shall lie; and that the private properties to which lawful title shall have been acquired prior to the present convention shall be duly respected, and shall enjoy all the guaranties which the constitution and laws of each one of the two countries give to the property of their own citizens, to which laws the said properties shall be in all respects subjected.

ART. IX. If the Governments should not be able to agree on any one or more of the disputed points, they agree to refer the decision to an arbitrator, who shall be the President of any one of the other Central American Republics, in the following order: Salvador, Nicaragua, and Costa Rica. The nomination of the arbitrator shall be made at the latest within 60 days of the publication in the official gazette of the note in which one of the contracting governments suggests the said nomination to the other.

ART. X. If the Presidents of the Central American Republics will not or can not accept the office, the point or points at issue shall be submitted to the decision of his Majesty the King of Spain, and, failing His Majesty, to that of the President of any one of the Republics of South America on whom the chancelleries of both countries may agree.

ART. XI. The proceedings and terms to be referred to the arbitrator shall be as follows:

1. Within 60 days of the date in which the acceptance of the arbitrator shall be notified to the two high powers the latter shall submit to him their case, plans, maps, and documents.

2. The arbitrator shall communicate to each Government the case of the adverse party within eight days following its presentation.

3. Each Government shall have a right to rebut the case of the other party within the 90 days following the date on which the respective case was communicated to it, and with both replies documents, plans, and maps may also be presented.

4. The arbitrator shall give his award within 180 days following the date on which the time for answering the cases shall have lapsed, whether such cases have or have not been presented.

5. The arbitrator may delegate his functions for the furtherance and study of the case, but he must directly and personally give the definite award.

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ART. XII. The award of the arbitrator, be it what it may, shall be considered a perfect, binding, and perpetual treaty between the high contracting parties, and no appeal shall lie against it.

ART. XIII. The present convention shall be submitted in Guatemala and Honduras for the constitutionally legal ratifications, and which shall be exchanged at Guatemala or Tegucigalpa within 60 days after the date on which both Governments shall have fulfilled that which is stipulated in this article.

ART. XIV. The stipulation of the preceding article shall not in any way prevent the immediate organization of the mixed commission, which shall begin its studies, not later than two months after the last ratification, in conformity with the provisions of the present convention. Such operations may, however, commence before the ratifications are effected, if these should be delayed so as to take advantage of the dry or summer season for the field operations.

ART. XV. Immediately after the exchange of the ratifications of this convention, whether the labors of the mixed commission shall be commenced or not, the Governments of Guatemala and Honduras shall designate the arbitrator, who, in conformity with Article IX, shall give his award on the point or points in which the said Governments may disagree, and shall ask him to accept or decline the offices. In the event of his excusing himself, another arbitrator shall be nominated in the order set forth in Article X.

ART. XVI. None of the time limits fixed in this treaty shall be of a final character, nor shall they give rise to nullity of any kind. The purpose with which they have been fixed is that precision be given to the work; but if for any cause they are not sufficient for the object in view, it is the will of the high contracting powers that the negotiations all be carried on till terminated in the stipulated form which they consider to be most suitable. To this end they agree that the present convention shall endure 10 years in case of a break in its execution, during which time it shall not be reviewed or modified in any way, save by stipulations to the contrary, nor shall the boundary dispute be settled by any other means.

In virtue of which the plenipotentiaries of Guatemala and Honduras sign in duplicate and affix their respective seals in the city of Guatemala, the 1st of March, 1895, 74th year of Independence of Central America.

(L. S.) JORGE MUÑOZ.
(L. S.) JUAN A. ARIAS.

The treaty of 1914 of which an English translation may be found in British State Papers (vol. 107, page 908, and on) has been carefully compared with that of 1895 and found to be practically identical with it.

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For greater convenience, the points of difference are hereinbelow noted in parallel columns:

PREAMBLE.

1895.	1914.
The names and titles of the respective plenipotentiaries are, of course, not the same.	The phrase "which they found to be in good and due form" after full powers, does not appear in the treaty of 1895.

ARTICLE 8.

"La Republica" instead of Las Republicas (the singular instead of the plural).	"Las Republicas" instead of La Republica (the plural instead of the singular).

ARTICLE 9.

After the word arbitrator: who shall be any one of the Presidents of the other Republics of Central America, in the following successive order: Salvador, Nicaragua, and Costa Rica.	Names but one arbitrator, the President of the United States. The words "á mas tardar" at the latest are placed before "within 60 days, etc."

ARTICLE 10.

The arbitrator named to act in case of disability or refusal of the Central American Presidents is "H. M. the King of Spain."	The two substitutes are in order: The President of the French Republic, and the President of the Republic of Chile.

ARTICLE 15.	ARTICLE 15.
which in the treaty of 1914 becomes article 16 is the only one in which any essential difference is noted. It reads as follows:	which in the treaty of 1895 is article 16 only differs from it in that the word "estipulacion" is used in the plural "estipulaciones" in the treaty of 1895.

(1895.)	1914. ARTICLE 16.
"Immediately after the exchange of the ratifications of this convention whether or not the Mixed Commission shall have begun its labors, the Governments of Honduras and Guatemala will designate the arbitrator who, in accordance with article 9, shall render his award on the point or points over which the said Governments may happen to disagree, and will seek to that end his acceptance or refusal. In case of refusal, another arbitrator will be designated in the order established by article 10.	which takes the place of article 15 in the convention of 1895 runs as follows: The High Contracting Parties declare that they recognize as valid the work carried out up to this date by the Mixed Boundary Commission, in virtue of and in accordance with the convention signed in this city on the 1st March, 1895, by the plenipotentiaries of both nations.

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The closing part of the treaty of course differs in the dates and signatures and also in that the words "de un mismo tenor" (of one tenor) after "dos ejemplares" (two copies) do not appear in the treaty of 1895.

MINUTES OF THE SESSION OF MAY 24.

The conference was called to order by the Hon Boaz Long at 11 a. m. All of the members of the Honduran and Guatemalan Boundary Missions were present.

The minutes of the last meeting were read and approved.

Mr. Long reported that no official stenographer had been found, but that the search for one would be continued.

Dr. Policarpo Bonilla then read the memorandum which he had prepared, in accordance with the plan proposed at the session of May 22. A copy in Spanish, of this document was handed to Dr. Toledo Herrarte and another to the chairman.

Dr. Toledo Herrarte followed with a reading of his memorandum on behalf of Guatemala. As but one copy of this document was available, Dr. Toledo Herrarte offered to have duplicates made for Dr. Policarpo Bonilla and Mr. Long. Mr. Long volunteered to procure blue prints of the map which accompanied Dr. Toledo Herrarte's memorandum, and to deliver two to the Honduran Boundary Mission. It was mutually agreed that translations into English, of both documents, should be made as quickly as possible and placed in the hands of the proper parties.

The chairman, Mr. Long, commenting upon the memoranda that have been submitted by the parties in interest, observed that Dr. Policarpo Bonilla, in his statement, had based the pretensions of Honduras, to the territory in question, largely upon comparatively recent events, since the independence of Central America, while Dr. Toledo Herrarte's memorandum practically ended at this period and began with the early discovery and colonization of Central America, by the Spaniards. The former dwelt more upon that period from 1845 to the present day; the latter from about 1500 to 1821.

Thus it was apparent that the subject had been approached from a modern point of view by Honduras; whereas Guatemala began its analysis at a far earlier date.

Dr. Toledo Herrarte proposed that the necessary time be set apart for a study of the memoranda.

Dr. Policarpo Bonilla stated this would occasion delay as the memoranda referred to distinct periods, each side having described conditions affecting the boundary during different epochs.

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It was then mutually agreed that the conference be adjourned for a sufficient time to allow for the study of the documents just presented, and that the conference reconvene at an early date to hear read the replies which both parties should submit in answer to the memoranda presented on May 24.

The meeting adjourned at 12.30; the date of the next one to depend upon the time required to conclude the study of the papers submitted, and the preparations of corresponding replies.

MEMORANDUM READ BY DR. POLICARPO BONILLA.

HONDURAS SPECIAL BOUNDARY MISSION,
Washington, May 24, 1918.

GENTLEMEN: In accordance with the agreement reached at the session of day before yesterday, I shall make the briefest possible statement of the view taken by the people and Government of Honduras of the boundary dispute with Guatemala, which it is the purpose of this conference to bring to an end. I believe that the powers and instructions given me by my Government place me in position to meet the wishes and hopes expressed by the Secretary of State in his opening address, and I trust that the Guatemalan representatives will be similarly situated.

I offer hereinbelow the memorandum giving a cursory history of the dispute and a résumé of the claims of Honduras.

MEMORANDUM.

The question of the boundary between Honduras and Guatemala was unknown in the colonial days; the King of Spain being lord of the two Provinces, any difference that could have arisen on that subject must or could be settled through the Captain General or the Real Audiencia, his delegates in the Kingdom of Guatemala. Furthermore, the old records show that the authorities and even the inhabitants of the adjoining parts knew the dividing line and that it was never brought into question.

In the two years when Central America was annexed to Mexico after independence was proclaimed and under the Federal Government, there is no record of any boundary dispute of any consequence between the two States, and the only cases that have come to my knowledge and to which I shall refer on some other occasion were nipped in the bud through the intervention of the common superior authority.

When in 1842 the Federation was dissolved, boundary disputes began to arise between the peoples of the two countries; but they were merely local, such as those that take place among the people

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of one State. In this connection, a general treaty of peace and friendship concluded between the two Governments in 1845 provided, in its article 13, a mode of settlement of such questions by organizing a commission of each country for a joint demarkation of the line, and by declaring the territory which formed the Episcopal dioceses of the days before independence to be that of each country.

The commissions met in 1847, agreed on a starting point which was not well defined and another point where the line should end, but without going over or marking the line; they were unable to continue the demarkation because the Guatemalan Commission insisted, not without reason at that time, that it could not accept other documents than those which had reference to the area of the dioceses, and would not take into consideration titles to land or other instruments relative to political jurisdiction. As both commissions found that there was no ecclesiastic order or similar document in existence which determined the Episcopal jurisdiction, it became impossible to carry out the treaty, and the commissions separated.

Difficulties continued to arise between the authorities and inhabitants of border towns, but not between the Governments. The first time when that question was taken up by them in a manner that threatened the peace of both countries was in 1894, when the Government of Guatemala sent to that of Honduras a kind of an ultimatum demanding the immediate delivery of a large area of territory, the greater part of which had not before been in dispute.

The incident gave birth to the Boundary Convention, which was concluded in 1895 between the two Governments and contains among others the articles that run as follows:

ARTICLE I. The Governments of Honduras and Guatemala shall name a mixed technical commission, composed of an equal number of members for each party, to study the antecedents, documents, and data existing as to the limits of both Republics.

ARTICLE VI. To take the necessary resolutions, the contracting Governments, after the mixed commission shall have presented their report, shall give their consideration to the observations and studies of said commission, and the lines marked in public documents not contradicted by others of the same nature and of greater force, giving to each the value corresponding to it according to its antiquity and juridical efficacy; the extent of the territory which formed the ancient Provinces of Honduras and Guatemala at the date of their independence; the dispositions of the royal ordinance of intendants which then ruled; and, in general, all documents, maps, plans, etc., which may lead to clearing up the truth, preference being given to those which by their nature should have greater force owing to their

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antiquity, or being more clear, just, or impartial, or for any other such good reason according to the principles of justice.

"Possession shall only be considered valid so far as it is just, legal, and well founded, in conformity with general principles of equity, and with the rules of justice sanctioned by the law of nations."

As may be seen from the articles herein above quoted, the convention does not even mention the treaty of 1845, leaves the Boundary Commissions it creates and the Governments at liberty to take into consideration all kinds of precedents and documents, and relegates to the fourth place those referring to the jurisdiction of the dioceses (to which the royal audience of intendantes had reference), giving preference to those which relates to the political jurisdiction of the former Provinces at the time of the independence.

Many years passed by without action being taken on the convention, the 10-year period that had been set was extended, and at last the commissions that had been appointed by both parties met on the frontier in 1908, 1909, and 1910.

The commissions only arrived at an agreement on the starting point (Cerro Brujo, the point where the two boundaries meet that of Salvador) and El Cerro Obscuro, at the end of what they called "the first section of the frontier"; but they did not agree on the running of the line between the two points. They also drew in common accord "the line of possession" of that first section and of the second which ends on the parallel of the ruins of Copan.

The line claimed by Honduras in the debates of the commissions agreed or nearly agreed with that of possession drawn by both. That claimed by Guatemala diverged from El Cerro Obscuro, running toward the crest of the Cordillera of Merendon, Grita, or Gallinero, distant by more than 12 miles from the line of actual possession along that parallel.

The Honduran Commission based its claims on title deeds to land which for the most part antedated the independence, and were issued in the Province of Gracias a Dios which was the same as that of Comayagua or Honduras; and on other documents of indisputable validity which all demonstrate that the Copan Valley where the famous ruins are has belonged and now belongs to Honduras since the sixteenth century, period of the Conquest, up to the present date—that is to say for about four centuries.

The Guatemalan Commission, in drawing the line over the Cordillera, gives to Guatemala the whole of the said Valley of Copan, and it produced no other document than a report made to the bishop of Guatemala in 1769 by a parish priest who assured that he had jurisdiction over the said valley; a statement, issued by another bishop some 20 years later, of the pastors of his diocese in which the

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same valley was included, and depositions made in Guatemala by Guatemalan witnesses, inhabitants of the townships directly interested in expanding their territory; but neither those documents nor those depositions warrant taking in the crest of the Cordillera, and they leave the line far away. The Guatemalan Commission declares that its sole object in taking in the crest is to seek a natural boundary, although it would be more reasonable to take for a natural boundary the Motagua River which is less distant from the Valley of Copan, running down the Managua or Bobos River, according to the historian and geographer, P. Juarros. If Guatemala had proposed that line, it would have conformed to the line of possession that was not disputed before 1847 and was recognized many years thereafter; the line that was accepted by the Guatemalan writer named above and even by official Guatemalan documents.

This boundary dispute might have been averted if Guatemala had not ignored those precedents by claiming a line as far advanced as that which it claims over Honduran territory. This constrained the Government of Honduras to seek every kind of documents which have convinced it that it holds well-founded rights over an area of territory held by Guatemala on the other side of the Motagua from the point where the river is met down to the Dulce Bay and along the shore of that gulf as far as the present colony of Belice, which is called British Honduras because it belonged to Honduras, together with all the territory here referred to at the time nearest the Independence.

That line could not be drawn by the engineers of Honduras because when in accordance with a resolution of the mixed commission they crossed the Motagua and attempted to make their surveys and draw up their plans, they were stopped by the departmental authorities, whose action was ratified by the department of foreign relations of Guatemala. This brought the conference to an end, the engineers of Honduras having previously entered a protest.

On the other hand, the Guatemalan engineers went as far as they chose with their surveys and plotting on the Honduran side, far beyond the line they had ever suggested even in their claims. Not only did the Honduran authorities offer no objection but they extended to them every facility and assistance, as had been agreed.

If Guatemala persists in proposing the Cordillera line without any more foundation than it had before, Honduras just as reasonably will propose to seek a natural boundary in a line starting from El Cerro Obscuro, the recognized common border point running straight to the Zarzal Gap, one of the sources of the Mapa River, down the stream to its confluence with the Jupilingo; along that river to its confluence with the Motagua, and along that until it makes one with the Managua or Bobos River, and from that point

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straight to the point nearest the Dulce Bay. It is true that that line would give to Honduras various towns of Guatemala and some land comprised in that province before the Independence; but the line claimed by Guatemala would also leave under its jurisdiction a larger number of towns belonging to Honduras and the land above referred to and the title to which was vested in that Province before 1821.

Continuing the history of the question, I will say that when the period of extension of the convention of 1895 expired, another was concluded in 1914, differing from the previous one only in that which related to the arbitrator who should, if occasion arose, take cognizance of the question, and in recognizing as valid the labors of the commissions which met under the convention of 1895, without even mentioning the treaty of 1845 or the labors of the 1847 commission, the claims of the Guatemalan Commission with respect to the said treaty and labors being thereby disowned by implication.

Under the terms of the last convention, the commissions again met on the frontier, but they were unable to do any beneficial work, as the Guatemalan Commission persisted in not letting the Honduran engineers cross the Motagua River for the purposes of survey; so they separated.

For that reason the engineers of the two countries did not jointly draw the line of possession beyond the Copan parallel, nor were the claims of each party to the territory lying between that point and the sea stated.

Throughout the sessions the Guatemalan Commission manifested the pretension that the treaty of 1845 in that it referred to the boundary was perpetual and irrevocable, and that under it the documents entitled to preference are those which bear an ecclesiastical jurisdiction and that the titles to land are deeds of a private character. That commission failed to take into account the fact that the treaty of 1845 was not directly on the subject of boundary and did not define it; that it was considered by the commissions of 1847 to be impracticable and that for that reason the later conventions established different rules which are those that must serve in the settlement of the dispute. It also failed to take into account that titles to land are instruments of a public character because they were granted by the King Sovereign of that country or by his delegates, and that those instruments have been the principal base upon which the Spanish American countries have determined their boundaries.

This brief review of the question will in my opinion suffice to prove that Honduras has justice on its side. The affirmations therein made will be duly substantiated; I will in due course produce the documents upon which they rest and the arguments that support them; but truth and justice being the goal of my mission, I shall ever have

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it in mind to listen to arguments and to take into consideration such documents as may be produced tending to rectify or modify my position. And if the representatives of Guatemala should bring their claims down to the line of possession formerly recognized, the solution of the problem standing before us will, as I have hereinabove intimated, be made so much easier that we may beforehand feel assured that the mediation that has been tendered to us will bear fruit and that we will in that wise do honor to the hospitality extended to us by the Government of the United States of America.

P. BONILLA.

MEMORANDUM READ BY DR. LUIS TOLEDO HERRARTE.

GUATEMALAN SPECIAL BOUNDARY MISSION,
Washington, May 24, 1918.

MEMORANDUM.

I have the honor to make in the present memorandum, which is to be later amplified, if necessary, a brief summary of the rights of Guatemala on the boundary question now under discussion with the Government of Honduras.

The constant and useless debate on the subject of the demarcation of boundaries between Guatemala and Honduras, which has been going on for so many years, persuaded their respective Governments that the amicable mediation of a friendly nation might bring about the just and honorable solution of their differences which both parties have so eagerly sought. In order to reach this solution, they have accepted the kind offer of the illustrious Government of the United States, through whose good and friendly offices they expect to attain this so much hoped for solution, in the assurance that the said officers will be inspired and guided by the spirit of justice which the Government of Washington exercises in all its acts, and which attracts to it the admiration of everyone, both at home and abroad.

The Government of Guatemala, representing a people bound to that of Honduras by a community of origin and an identical history, shall discuss their rights with the Honduran Government in a spirit of fraternal friendship. I shall take especial care not to deviate from those happy dispositions, and be always ready to accept or consider any just solution which shall take into consideration the real interests of both nations.

In order to give greater clarity to this exposition, I shall first state the bases upon which the investigation and determination of our rights must rest.

Guatemala and Honduras must make the demarcation of their boundaries, taking the same limits which they had during the col-

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onial government, according to the contractual law in force. The principle followed in the latter has been expressed in America, as it is well known, in the improper formula of *uti possidetis* up to the time of the independence. This principle in practice has divided the opinions of publicists, inasmuch as while some maintain that in solving the boundary questions by the *uti possidetis*, they must consider only the fact of the possession without entering into the question of the title to the ownership, others think that the application of that formula would compel the study of titles of both jurisdictions and the granting to the nations, not precisely what they have possessed, but that which, according to the decrees of the sovereign, they had a right to possess.

These opinions have been expressed in the formulas still more improper of *uti possidetis juris* and *uti possidetis facto.*

In the case of Guatemala and Honduras there is happily no room even to discuss which one of the two opinions must prevail; the signers of the treaty of 1914 did not take into consideration vague formulas and confusing expressions, and with all possible clearness agreed that in order to discuss and define the boundaries of the two Republics, the Governments should take into account "the comprehension of the territory which constituted the old provinces of Guatemala and Honduras at the date of their independence," indicating that the possession shall have value only in so far as it is just, legitimate, and well founded according to the general principles of law and to the rules of justice which have been sanctioned by the law of nations upon the subject. (Articles 5 and 6.)

These stipulations, by which the so-called principle of *uti possidetis juris* acquires binding force of law for the two high parties, clearly and conclusively indicates that Guatemala has a right to the territories which, according to the boundaries marked out by the Spanish sovereign, she had a right to possess at the time of the independence.

In order to determine which were these territories, and in order to be able to determine how far their limits extended, I shall state briefly the historical facts relative to this question.

II.

Gil Gonzalez Davila, coming from the Province of Castilla del Oro, whose governor was Pedro Arias Davila, known as Pedrarias, and in agreement with him, entered into Nicaragua, gathered from the natives some important amounts of gold, and from the knowledge which he gained of the country he thought that there must undoubtedly be a waterway uniting the two oceans, a waterway which was then sought with a great deal of eagerness and interest.

For various reasons he returned to Panama; and as he did not want to divide with Pedrarias part of the gold which he was taking,

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and got himself into difficulties with him, he went as well as he could to Santo Domingo, whence he sent that part of the gold which belonged to him to the King by Andrès de Cereceda, and asked and obtained from the King permission to return to Nicaragua by Honduras, because he could not take the former route on account of his differences with Pedrarias.

After getting everything ready, he started on his journey with the intention of landing at Puerto Caballos, but this he found impossible for the reason that a great storm carried him farther, and he only succeeded in landing about the middle of the year 1524 at the coast of Amatique, where, as he said, he founded San Gil of Buena Vista; but in reality he did nothing more than leave there, as forsaken, a handful of men without organization and without resources.

In order to accomplish the purpose of his expedition, he left immediately for Nicaragua, which was the object of his aspirations; and crossing the territory of Honduras, without founding or conquering anything, since history does not say that he fought any battles with the natives or even that he took possession of the country in the name of the King, he arrived at Olancho, where he met the forces which Pedrarias had sent for the conquest of Nicaragua; he fought them and came out the victor.

At that time the celebrated Cristobal de Olid, who had been sent by Cortes, had already reached the shores of Honduras, and landed, on the 3d day of May, 1524, 15 leagues to the west of Puerto Caballos; he took possession of the country in the name of the King and of Cortes, and founded a town to which he gave the name of Triunfo de la Cruz, and sent several detachments to conquer and pacify the interior of the country.

Learning of these events, Gil Gonzàles turned back, and, upon meeting Cristobal de Olid, was vanquished by him and captured, together with Francisco de las Casas, whom Cortes had sent to punish the treachery of Cristobal de Olid against him.

After the capture of Gil Gonzàlez and Francisco de las Casas, Cristobal de Olid paid to his prisoners all kinds of consideration and took them with him to the town of Naco, where they perfidiously and treacherously murdered him one night after supper.

After the crime, Gil González and Francisco de las Casas went into Mexico in search of Cortes; and as he was not there, since he had come to Honduras to punish the treachery of Olid, Gil González sailed for Spain, where the King, as a recompense for his services, appointed him Governor of Nicaragua, for this was the country which he had conquered and which he, the said Gil González, had asked for and wished to govern. The King did not reward him with the government of Honduras, nor did Gil Gon-

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zález ask for it, because in reality he had no right whatsoever to it, not having conquered nor peopled this territory. Gil González could not enjoy the government of Nicaragua, because he died suddenly in Spain, dying about the middle of the year 1526.

It is necessary to state that when Cortes came by land from Mexico to punish the treachery of Cristobal de Olid and reached Golfo Dulce, San Gil de Buena Vista had already gone out of existence, because the few inhabitants who had occupied it (they were not even 40) had abandoned it completely and gone to a small native town called Nito, situated to the west of Golfo Dulce. As both places were unhealthy, swampy, and lacking in the necessities of life, Cortes gathered all its inhabitants, Spaniards as well as natives, and took them to Puerto Caballos, in the beginning of September, 1525, where with them and others that he had with him he founded a town which he called Natividad, this being the end of San Gil de Buena Vista and the native town called Nito.

III.

From these historical facts, or the landing of Gil González Davila on the coast of Amatique, Honduras has attempted on several occasions to deduce that her national sovereignty extends to that place. Nothing can be more devoid of a foundation than this; indeed, the intent of Gil González was to land at Puerto Caballos; but as he was prevented from so doing by the storm which carried him still farther on, he landed at the cost of Amatique. It was, then, chance which took him to that place, and chance in this case can not give him any right whatsoever.

Gil González did not intend to conquer and populate the Honduran territory, nor even to establish himself in it. His aspiration would have taken him to Nicaragua, because it was there that he expected to find the so much hoped for point of reunion between the Atlantic and the Pacific. If, therefore, he did not intend to establish himself in Honduras, nor even to populate and conquer her territory, he could not and did not acquire any right by the mere fact of his landing at the coast of Amatique, because there was lacking the first condition to acquire a right; namely, the intention and the wish to acquire it.

The foregoing is clearly confirmed by the fact that Gil González did not take possession of these places in the name of the King, as was provided by law 11, title 2, book IV of the "Recopilación de Indias," which imposed upon those who should discover any island or mainland compliance with this formality upon landing. Christopher Columbus in his fourth and last voyage, upon landing on the 17th day of August, 1502, on the territory of Honduras, near the

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river Tinto,[1] unfurled the Spanish flag and took possession of the territory in the name of the Catholic Kings. Cristobal de Olid, upon landing at Trujillo and founding Triunfo de la Cruz, like all those conquerors who wished to acquire the sovereignty and dominion for the King, and for themselves the right to govern the territory in question, also complied with this legal provision. Gil González did not take possession of the territory in the name of the King, not because he was in ignorance of the law, but because he did not have the intention to conquer, populate, and establish himself in the territory, and if he did not comply with the law, he could not have acquired any right thereto. Moreover, no one could by his own authority, according to law IV, title 1, and to law I, title 2, of book IV of the "Recopilación de Indias," launched into new conquests and discoveries without the corresponding authority of the King without incurring severe penalties; and on many occasions, capitulations were concluded, which were a species of contract, in which the party interested would engage to discover and conquer, and the Monarch would grant to him the government of the territory thus discovered and conquered. Now Gil González knew perfectly well of these provisions, because he was a man well acquainted with this matter, as is shown by his active life; but he not only failed to conclude any capitulation to conquer and people Honduras, but he confined himself only to asking the Monarch for permission to go to Nicaragua, passing through the territory of Honduras. And this was natural; his disagreement with Pedrarias closed to him the doors to Nicaragua by the side of the Province of Castilla del Oro, and the Atlantic coast was forbidden to him because it was unknown to him and because the warlike Mosquito Indians closed the road to him. There was, therefore, no other route open to him than to cross the territory of Honduras, and that was what he asked for.

And not only that, but the activities of Gil González himself show this to be so, and confirm it. He landed at the coast of Amatique, and did not stop there, as would have been natural, to explore the interior of the country, investigate its resources and situation; nor did he go to the interior to conquer the neighboring territory, nor

[1] "River Tinto" is the name given to the river which Columbus, in his last voyage, called the "River of Possession," because he went up this river to take possession of the territory in the name of the King of Spain. This river was to the east of Trujillo before Cabo de Gracias a Dios, and seems to have been the boundary between the territories of the Provinces of Honduras and Nicaragua.

The other so-called river Tinto of the modern maps and geographies is a brook of small volume and length whose sources are in the Cordillera del Espiritu Santo, on the slopes of a hill called San Ildefonso, this name being given to it by the color taken by its waters, a reddish black, owing to the transparency and stillness of the water, which permits the bottom of decomposed leaves to be seen. Its form is very tortuous and irregular, and its lower part forms coves and lagoons. It was at one time a tributary of the Caribbean Sea to the east of the mouth of the Motagua, but this river left its bed and took that of the former, thus resulting in the brook or river Tinto as an affluent of the river Motagua.

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seek, as it was prescribed by the said laws of the Indies, a prominent and healthy place to found a city. No; he did nothing of the sort, and thinking only of the Nicaraguan lands, he left on the barren shores of Amatique, an unprotected swampy, unhealthy, and almost unhabited place, a few men, without organization and resources, and immediately started on his journey to Nicaragua. Had he wished to found a colony there, his conduct and his measures would have been different; and had he wished to conquer and govern that country, he would not have passed by it without knowing it.

As a result of what has been said, we must necessarily conclude that by the mere historical fact of having landed on the coast of Amatique, Gil González did not acquire any rights over those lands, and much less that by the single fact it should have been established by law that jurisdiction of the Province of Honduras extended to that point. To sustain this doctrine it would be necessary to show a law establishing that the place through which Gil González passed became an integral part of the Province of Honduras—and that law does not exist.

IV.

Having contested the arguments advanced to claim that the sovereignty of Honduras extended to the coast of Amatique and Golfo Dulce, there remains for us to examine how the Province of Honduras was constituted at that time.

Indeed we must recognize that the immortal Christopher Columbus and the brave and gallant Cristobal de Olid were the ones who legally founded the Province of Las Hibueras, or Honduras, as it is called to-day, because they were the ones who, upon landing, unfurled the flag of Spain and took possession of the territory with all the formalities prescribed by law, in the name of the Catholic Kings, and by this act, according to the laws and customs of that time, those territories were considered as incorporated into the Spanish nation, of which they became an integral part as of right.

We will now investigate which was the territory that these conquerors discovered and gave to Spain under the name of Las Hibueras.

Now, Christopher Columbus discovered the island of La Guanaja on the 30th of July, 1502, during his fourth and last voyage, and gave it the name of Isla de los Pinos (Pine Island) on account of the many and very large trees of this kind which were growing there. This island still preserves its primitive name, Guanaja, and not the one which Columbus gave to it, and forms a part of the group which now is known as Islas de la Bahia, which are: Morat, Elena, Roatan, Guanaja, and Utila.

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From these islands begins on that side the Province of Las Hibueras, not only because Columbus discovered them during that voyage in which he took possession of them in the name of the Kings, but because it was thus declared later on by law 15, title 1, book V of the "Recopilacion de Indias."

Continuing his voyage, Christopher Columbus left Isla Guanaja, sailing southward, and after a few hours of navigation, he discovered on the mainland a cape which he called Caxinas, on account of the many trees bearing this fruit which were growing there. This cape is the one which is now known by the name of Cabo de Honduras or Trujillo, because here is where the port of this last name lies.

Columbus continued navigating eastward very close to the coast, and about 15 leagues thence he found a wide and beautiful river. Part of the men who accompanied him went up this river in boats to explore farther inland. Soon after they landed, and it was precisely here where, on the 17th day of August, 1502, they took possession, with all the formalities of law, of the territory, in the name of the Catholic Kings. For this reason they called that river "el Río de la posesion," a name which it does not bear at the present time, having in its stead that of "Rio Tinto"[1] and with many hardships and difficulties, he continued the voyage up to Cabo de Gracias a Dios, this point being, therefore, the boundary of the Province of Las Hibueras, on the east.

Cristobal de Olid was the one who completed the work of Columbus here, since, as has already been said, he landed at Trujillo on the 3d day of May, 1524, took possession in the name of the King, founded the town called Triunfo de la Cruz, and sent out several expeditions to explore and conquer the interior of the country, going by the west up to the town of Naco, where he was murdered by Gil González and Francisco de las Casas.

These historical facts conclusively prove, beyond any possible doubt, *that the Province of Las Hibueras was placed from its beginning within these limits: On the east by the Cabo de Gracias a Dios; on the north the Atlantic Ocean, including Islas de la Bahia; on the west the territory on which the town of Naco was situated, at the foot of the Cordillera, known by the name of Merendon, Grita, Gallinero, Espiritu Santo, and Omoa; and on the south a line not well defined, but very far from the South Sea, as we shall see hereinafter.*

If the excursions and conquests of Cristobal de Olid undoubtedly did not go beyond the Valley of Naco, it is evident and beyond a doubt that the limits of the Province of Las Hibueras or Honduras extended to this point, and that its control and jurisdiction did not extend farther west.

[1] It is the same referred to in note 1, p. 32.

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Thus this Province was well defined as situated at the foot of the eastern slopes of the said Cordillera. No serious and convincing argument can be advanced to demonstrate that the limits of Honduras at that time extended beyond those stated above, and much less that her jurisdiction covered the eastern slopes of the said mountains.

V.

The Province of Honduras remained within these limits until the year 1530, when historical events, which were sanctioned later by royal legislation, had the effect of altering them. I must examine how the Province of Guatemala was constituted at that time and how some decrees issued by the Spanish Monarch could not have modified those limits. I shall afterwards consider the events and laws which modify them and examine the very origins of the present boundary question.

1. How the Province of Guatemala was constituted.

Don Pedro de Alvarado, who was sent by Cortes, came to conquer all the native realms and countries which at the present time constitute Guatemala. It is needless for us to stop to explain in detail the conquest made by don Pedro de Alvarado, the bloody battles waged, and all the steps that were taken. It is enough to state the historical fact, confirmed by all authorities on the matter, that don Pedro de Alvarado had already conquered all the towns of Chiquimula, Esquipulas, Copan, and all others situated on the western slopes of the Cordillera of the Merendon, Grita, Gallinero, etc., when in the year 1530, for several reasons, the natives who inhabited all these towns took up arms and got ready again for the struggle to maintain their independence and freedom.

Guatemala immediately got ready to suppress the uprising, and getting all her forces together, placed them under the command of the Capitanes Hernando de Chavez and Pedro de Amalin.

These capitanes undertook a campaign without loss of time, and after several bloody encounters took the town of Mictlan and went to Esquipulas, which was well fortified and undoubtedly belonged to some powerful chieftain (cacique). As these natives had already been tutored by experience in the battles in which they had taken part, like those of Copan, giving aid and support to the towns which, like themselves, were in rebellion, upon seeing outside the towns the warlike Spanish troops, they made up their minds to receive them in peace, submitting themselves again to the Spanish control.

Capitan Hernando de Chavez continued, as it was his duty, the hard campaign, marching against the fortified town of Copan.

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This town is situated not very far from the summit of the range of mountains so many times mentioned, although quite on the western slopes thereof.

Copan Calel, who was the veteran chieftain who governed in Copan, was determined to defend his territory vigorously and bravely. He had gathered 30,000 well-organized and disciplined combatants, and had also surrounded the town with deep ditches and solid trenches. Everything there showed the warlike spirit, the unbreakable valor, the grim determination of the men to die rather than suffer again slavery and servitude. The Spaniards reached the spot, and, although they were inferior in numbers, they were not stopped by the warlike spirit of the rebels, and, without any thought of the danger, they advanced with the indomitable courage which fires the Spanish heart. Desperate battles were fought in the vicinity of the town; blood ran profusely; but at last the discipline, the superiority, and above all, the never-failing courage of the Spanish warrior gave the triumph to the conquerors, who took the town by sheer force, and Copan Calel fled with his followers, taking refuge in the heights and town of Sitala, which is situated on the right bank of the river Lempa, very near to Ocotepeque, which is on the left bank of the said river. There this chieftain continued his patriotic efforts; but all in vain, and he at last was forced to submit again to the rule of the conquerors.

After the efforts of the gallant defenders of Copan were defeated all that western part of the range of mountains so many times referred to came again under the control of the Government of Guatemala. It could not be otherwise, since after the destruction of the power of the natives of Esquipulas and Copan there was not any other town or chieftain who could resist. With these two powerful towns all this region to the sea fell under the control of Guatemala, which since then possessed it in peace and right, because Honduras, very far from intending to cross those mountains to conquer those towns or to wrestle from Guatemala her possession and control—bleeding from fratricidal wars among the Spaniards themselves, exhausted by the rebellion of the native towns to the east of those mountains and by the tyranny of Cereceda, and weakened from starvation and want—was dying and about to disappear, ready not for conquests, but to ask for help and support, as she so insistently begged of Guatemala.

These historical facts clearly show that historically and legally the territories of Guatemala and Honduras were very well defined since the earliest years of her life until the year 1530. Honduras was situated on the eastern side, at the foot of the said mountains, as it has been shown already, and *Guatemala retained the control and possession of all the western part and all the territory which extends toward the west.*

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2. The decrees of the King of Spain did not alter at that time the territorial rights of Guatemala.

I shall examine the decrees of the Spanish Monarch, before and after the arrival of Gil González Davila on the coast of Amatique, in order to determine if there can be deducted from that the control and sovereignty of Honduras over those territories.

Among the former is found the permission, if there was such, which the King granted to Gil González to conquer Nicaragua. Certainly it will not be maintained that by reason of the permission which the King granted to Gil González Davila to conquer Nicaragua, Honduras acquired the sovereignty and dominion from the point where Gil González landed in 1524 on Cape Tres Puntas. If the permission referred to Nicaragua, evidently that permission was not to found Honduras, and therefore it can not be used as an argument to establish Honduras sovereignty.

On the other hand, Gil González did not make any capitulations with the King for the conquest of Honduras; therefore, neither could he acquire the rights granted by those capitulations.

Among the latter are found the appointment of Diego Lopez de Salcedo as the first governor of Honduras. Some Hondurans, among whom is to be found Father Vallejo, insist in holding that by reason of this appointment that Province became definitely and legally established; and that inasmuch as, by reason of said appointment, all the villages, cities, and places which were inhabited on that date formed part of its gubernatorial jurisdiction, and San Gil de Buena Vista was on the coast of Amatique, the sovereignty of Honduras begins from there.

Such doctrine as this can not be upheld. In order to prove this, we will examine, though lightly, what did really happen: The King, having learned of the quarrels between Cristobal de Olid, Gil Gonzalez Davila, and Francisco Hernandez de Cordova, decided to appoint Diego Lopez de Salcedo, Governor of Honduras, as it appears from the royal order dated in Toledo, November 20, 1525, wherein the part pertaining hereto reads as follows:

"*To you, Diego Lopez de Salcedo, greeting:*

"Know you, that we are informed of the differences arisen in the Province and Gulf of Las Higueras between the Captains Gil Gonzalez Davila and the late Cristobal de Olid and Francisco Hernandez de Cordova, a lieutenant sent by Pedro Arias Davila, our governor and lieutenant general of Castilla del Oro, in regard to the southern seacoast, and on account of the departure of Francisco de las Casas, and by reason of the towns which each one of them wanted to establish, and of the resistance shown on either side and the imprisonment and death resulting thereby, all of which has caused that province to be depopulated and in a state of upheaval * * *." And it fol-

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lows: "For you to have and to hold our civil and criminal justice in the cities, villages, and places which at present are populated in said lands, or which might be inhabited hereafter * * *." And it ends: "And it is also our pleasure and will that if you, the said Diego Lopez de Salcedo, should consider it convenient to our service and to the execution of our justice that any person of those which are now or might be in said lands should leave from them and not to enter or remain therein, and that they should come and appear before you, that you may order so in our name and may cause them to depart therefrom * * *."

For the sake of clearness we have quoted this appointment taken from the documentary history of Father Vallejo, page 12. It will be seen clearly that Guatemala was not, by that act, deprived of her just rights, nor was the sovereignty of Honduras extended to the coast of Amatique. The contrary is true. If that appointment has any legal value, it is precisely to further strengthen the rights of Guatemala, and to show that the jurisdiction of the Province of Honduras was, as already said, limited on the west up to the valley of Naco situated at the foot of the eastern side of the Merendon, Grita, Gallinero, Espiritu Santo, and Omoa Ridge.

Indeed, the King wisely ordered by that appointment that the administration of civil and criminal branches of justice by Salcedo should extend to the cities, villages, and *places which at present are populated in said land.* Attention is called, in the first place, to the fact that the appointment refers only to the exercise of civil and criminal jurisdiction, and not to any dominion or right of property or to sovereignty. So that civil and criminal jurisdiction might very well have been extended to places situated within the boundaries of other provinces, without thereby altering the limits theretofore demarcated, as can be shown by numerous instances. Guatemala had civil, criminal, political, and military jurisdiction over Trujillo and other places still farther until shortly before the independence, and yet this could not be interpreted as including those places, just by that mere fact, within its territorial limits, making them an integral part of its territory.

Therefore, if that appointment might be interpreted as extending Salcedo's civil and criminal jurisdiction as far as the coast of Amatique, yet this fact could not be considered as ground to maintain that that territory became detached from the eminent domain of Guatemala and attached to that of Honduras. No; that order referred only to the judicial functions, so to speak, of the civil and criminal branches, and did not alter the sovereignty and dominion already established prior thereto.

But these hypothetical considerations are unnecessary, since although by reason of that appointment the Province of Las Hibueras

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should have been in fact legally constituted, the limits already fixed did not become altered thereby. Indeed, that appointment provides, as already said, that Lopez de Salcedo shall have civil and criminal jurisdiction; but only over those cities, villages, and places which might be populated in that date, 1525; but inasmuch as the populated places of Honduras did not extend beyond the town situated in the Valley of Naco and known by that name, it is clear as light that the limits of the Province of Las Hibueras reached only as far as that place. In order that the limits of the Province of Las Hibueras could have been extended beyond that point on that date and by virtue of Salcedo's appointment, it would be necessary to prove that there existed other towns beyond Naco, and that those towns were within the jurisdiction of Honduras.

There is still another fact to be taken into account which does away with the idea that San Gil de Buena Vista could at any time have been within the territorial jurisdiction of Las Hibueras. When at the end of November, 1525, Salcedo was appointed governor thereof, San Gil did not exist; moreover, it had ceased to exist at the beginning of that year, when Cortez arrived and found that its few inhabitants had left it and had taken refuge in the small native town of Nito, which had since become also extinct, because the conqueror, due to the unhealthy conditions of the place, moved all its inhabitants, natives as well as Spaniards, to Puerto Caballos, now known as Puerto Cortes, where he established a town called "Natividad" on September 8 of that same year, 1525.

So, then, inasmuch as San Gil no longer existed when Salcedo was appointed governor of Honduras, that appointment did not extend the jurisdiction of that Province up to the place where San Gil had been established, because that appointment only gave him jurisdiction over the cities and villages which were populated at that time and not over those which had ceased to exist.

The appointment of Salcedo gave him also jurisdiction over the cities and villages which should be populated thereafter; but this evidently refers only to such cities and villages which might become populated within his territorial boundaries, and in no manner to those which might become populated outside of those boundaries. So, then, although San Gil should have become populated afterwards (which it never did) this fact would not cause the sovereignty of Honduras to reach there.

The foregoing proves conclusively that neither the orders issued before and after the arrival of Gil Gonzales Davila, nor the appointment of Salcedo, nor the latter's government, altered the boundaries and possessions of Guatemala and Honduras at that time.

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3. Facts which changed the boundaries of both Provinces, giving Guatemala a title right to the eastern side of the ridge.

Up to the year 1530 the Provinces of Guatemala and Honduras had had no disputes as to their territorial boundaries; the former on the western side of the Merendon, Grita, Gallinero, etc., ridge, and the latter at the foot of those same mountains, but on the eastern side.

It was after that date when the territorial dispute started, but that dispute did not refer absolutely to the western slope of the aforesaid ridge nor to the land which extends beyond it westward. Guatemala continued to possess quietly and peacefully all that territory which was hers, and neither Honduras nor anyone else ever disputed her possession.

The dispute which has since been initiated and remains still unsettled and undecided was in regard to the dominion and possession of all that territory situated on the eastern slopes of the same ridge and even of the ground farther eastward from them. From that date, then, the issue in the territorial dispute was well defined and established.

I shall briefly narrate the subsequent events which gave Guatemala her rights to the eastern side of the ridge.

From the time of the government of Diego Lopez de Salcedo, Honduras had become still more disorganized since, as has already been said, he left for Nicaragua, and his absence naturally produced disturbances and confusion. Having returned to Trujillo, he died, leaving the Government of the Province in charge of the treasurer, Andres de Cereceda, which caused greater evils and disturbances, because Vasco de Herrera and Capt. Diego Mendez disputed his power. As it was natural, this excited hate and caused an overflow of passion. Herrera was murdered. Mendez was imprisoned and beheaded, and, as if all these evils were not enough, an epidemic depopulated the country, bringing with it hunger and poverty, Cereceda in the meantime consummating the ruin of the Province by his tyranny and cruelty.

In the midst of these conditions Diego de Albitez, the new governor sent by the King, arrived, but his command lasted only a short time, because he died soon after, leaving Cereceda again in charge of the Government. Cereceda, in view of the difficulties which were becoming greater and greater every day, in spite of the strong opposition of the inhabitants of Trujillo, moved the colony to the town of Naco, where the sorrows and calamities which so cruelly tormented them continued on a still greater scale. Cereceda, in order to ameliorate these conditions, established a new town 7 leagues

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from Naco, where the climate was better, but the misfortunes did not cease; on the contrary, they increased each time, and the most appalling hunger and poverty confronted them without respite. In the midst of such terrible conditions they turned their entreating eyes to Guatemala, because it was the only country which by reason of its proximity and its riches could save them and provide them with the resources which they so urgently needed to preserve their lives. The treasurer, Diego Garcia de Celis, left immediately for Guatemala, and entreating Pedro de Alvarado to lend them his quick and efficient help, this gentleman, with his characteristic promptitude, made ready to go to Honduras, taking with him whatever might be needed there, for it must be noted that, in addition to the aforesaid calamities, the natives had revolted some time before and were in arms ready to defend their independence and liberty.

Don Pedro, his army and retinue, entered Honduras through the town of Octepeque, which they pacified and conquered, marching toward the interior with the same purpose in view. They reached the neighborhood of Buena Esperanza, where they found Cereceda in the saddest and most despairing condition, since even the Spanish colonists had risen against him.

The arrival of Alvarado was the cause of joy and pleasure for all, and even for Cereceda himself, who could not hold out any longer. And it could not be otherwise; Alvarado had arrived with all sorts of supplies—arms, money, clothing, provisions, engineers, workmen, and whatever might be needed. It was like a delicious manna falling on those desolate and sad fields. Naturally they were all satisfied, and even Cereceda renounced his office and, by common agreement with all the colony, Don Pedro was proclaimed governor, it being thus incorporated to the Province of Guatemala.

Don Pedro did not disappoint the hopes which had been placed in him, since with his army he soon pacified the whole country, and with the other things which he brought with him fostered and promoted agriculture, placed the mines in a condition to be developed, opened new roads, founded new cities and villages, such as Gracias a Dios, San Pedro Sula, and Puerto Caballos, established farms for raising cattle, made an equitable apportionment of the land, organized a good government, and brought content and happiness to all hearts. Having accomplished his work, he left for Spain.

One must not believe that Don Pedro came to Honduras arbitrarily, nor only on account of the call made upon him by the colonists of that Province. He was authorized by the King, by virtue of several royal orders and resolutions, to conquer, populate, and apportion Puerto Caballos and the Valley of Naco (year 1532); to conquer and populate a port city in the North Sea (1534); and in

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case he should conquer and populate Puerto Caballos—even if it belonged to Honduras—to preserve it under his command just as any other land within his jurisdiction (1536).

There are other resolutions besides this authorizing Alvarado to retain his command over some of Honduras' territory. Diego Albitez, governor of Honduras, filed with the King in the year 1531 a memorial containing several petitions. Among other things he asked that the boundaries of the Province of Honduras should be fixed. This petition and the resolution thereon, in the part pertaining hereto, read as follows: "That the boundaries of his governmental jurisdiction be fixed on the North Sea from the Gulf of Las Higueras up to Port Gagines, and from the Gulf of Las Higueras the line to run inward until it reaches the South Sea to the town of Nequipio, inclusive, and from there to run along the coast of the South Sea toward the east until the last towns of Herotegamalaca, because these towns and those existing as far as the town of Nequipio are the frontier and cross distance of said Government of Higueras * * * and it is the first territory which was trod by Gil Gonzalez, where the latter left his people organized into a town and he returned to the North Sea, and it is what more appropriately belongs to the Government jurisdiction and corresponds to the first instructions given to Diego Lopez; this refers to what Gil Gonzalez and the other captains to whom reference is made in said instructions visited and discovered; and Pedro Alvarado has occupied these towns (it seems that he refers to Nequipio in El Salvador) and Provinces to the greater damage and prejudice of said Government and the inhabitants within its jurisdiction, for which reason your Majesty should see to and provide with justice for the other boundaries which should be fixed * * *." This application was indorsed by the King as follows: "That Alvarado shall repair to the port of Caballos and shall people it and distribute the Indians which he may pacify, whereupon it shall remain in the Government of Honduras, and the boundaries of the bishopric shall be the village of San Miguel up to the South Sea and up to the limits of Nicaragua, by the will of and while His Majesty shall not provide otherwise * * *."

From this memorial and the resolution thereon it can be deduced that the historical events just narrated did not alter the limits which the Provinces of Guatemala and Honduras had had up to the year 1530; that no dividing line between them had been demarcated, and that the Governor Albitez asked the King to fix that line. But said governor did not ask that the line should begin from Gulf Dulce or from Motagua River, nor in mentioning the towns within his jurisdiction did he name San Gil de Buena Vista, nor did he absolutely specify that that line should be marked at the west of the ridge of

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Merendon, Grita, Gallinero, Espiritu Santo, and Omoa. No; the line he asked for was located by him on the eastern part of those mountains—so much so that the sovereign, in passing upon his petition, decided "that Alvarado shall conquer and populate Puerto Caballos and shall distribute the Indians which he should pacify there." Therefore, if the King, on passing upon the petition of Albitez, gave Don Pedro de Alvarado the power to conquer and populate Puerto Caballos and to distribute the Indians and the land, the dividing line was then fixed in favor of Guatemala as far as Puerto Caballos, leaving the latter on its side.

In the meantime, the Adelantado Francisco de Montejo was appointed governor of Honduras. It is not necessary to make a detailed statement of all that occurred by reason of that appointment. We must only keep in mind that Señor Montejo on his arrival in Honduras found already established the cities of Gracias a Dios, San Pedro Sula, and San Pedro Puerto Caballos, which had been founded by Don Pedro de Alvarado. He also found the Government which the latter had organized, and peace and quiet secured for the whole country.

Before this, Montejo, knowing of the ruinous condition of the Province of Las Hibueras, declined the appointment of governor, but when he learned of the improvement made through Alvarado's efforts he hastened to take possession of his office. The neighbors and the persons who formed the Government organized by Alvarado refused to recognize him at first, but he overcame them and his authority was recognized.

When Alvarado returned from Spain he met Montejo in Gracias. They came to a settlement, agreeing that Alvarado would retain the Province of Las Hibueras or Honduras in exchange for which Montejo was given the Province of Chiapa, the town and lands of Chuchimilco, and 2,000 gold castellanos, and a letter was written to the King dated in Gracias August 10, 1539, signed by both, reporting the settlement and asking for his approval.

Prior to that, Montejo, Alvarado, and other persons of importance wrote several letters to His Majesty. It would take long to analyze all those letters, but from them it can be inferred beyond doubt that the territorial dispute was not in regard to the western slopes of the mountains, so often referred to, nor in regard to the Motagua River, nor the Gulf of Dulce; it was precisely the opposite; the issue was only as to whether or not Gracias, San Pedro Sula, and San Pedro Puerto Caballos and all the other cities and lands of that side which are at the foot of the mountains on the eastern side were to be incorporated into Guatemala.

One of these letters was that which Jeronimo de San Martin, the treasurer of the Province of Las Hibueras, wrote to the King from

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Puerto Caballos on April 28, 1537. In that letter he gives an account of the settlement of Gracias and other towns made by Alvarado; of the arrival of Montejo; he acknowledges the important services of Don Pedro, and the difficulties occasioned by the appointment of Montejo as governor of Honduras and Yucatan, and he says: "I do not know who can say that this can be settled and that the remedy for it is to join it with the Government of Yucatan, since there is no communication through the great rivers and their branches which go out to the sea and the roads are impassable, for which reason no aid can be expected from it since it lacks it for itself; and further inland and between them is the Government of Guatemala, so that Your Majesty will see as to how these two Governments could thus be well governed since being in one they can not aid the other nor is there in any one of them any power or possibility to lend mutual help. . . ."

This letter proves what already has been said, that is to say, that the territorial dispute was confined to the eastern side of the mountains where Gracias a Dios, San Pedro Sula and Puerto Caballos, etc., are established, and in no manner could it refer to the western side since it is positively alleged that the Province of Guatemala was between Honduras and Yucatan.

VI.

Having determined where the place of the territorial dispute between Guatemala and Honduras was, it is now necessary to study, briefly though it may be, the foundation and the justice of the pretensions of Guatemala. Little will be said now in regard to this point, reserving further and more extended discussion to a later period, if necessary.

Guatemala did not enter the land which is the subject matter of this dispute arbitrarily and for mere fancy. It was not her ambition which led her there. She went there at the insistent call of the Hondurans themselves who asked for her valuable help; it was they who incorporated themselves into Guatemala when they proclaimed our governor their own governor; they themselves were the ones who, with good will and pleasure, accepted and enjoyed the benefits which Guatemala bestowed on the country, pacifying it, organizing it, and promoting activity and production to accomplish all of which Guatemala spent her men, her blood, her wealth, her activity, her intelligence, and part of her own life. But the Hondurans were not the only ones; it was the King himself who, by empowering her governor, authorized Guatemala to make all the sacrifices which she did to conquer, pacify, and populate the aforesaid places. This being so, the rights of Guatemala are then based not only in the express will of the Hondurans, clearly manifested through acts which give

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no room for doubt, but in the will of the monarch himself, which as has been said, was expressed many times, authorizing Guatemala to conquer, pacify and populate those territories. If all this was done with the will of the Hondurans and royal sanction, are not the rights of Guatemala clear, evident, and just? If Guatemala made great sacrifices, if she shed her blood, if she spent her wealth, if she applied her activity and her intelligence, would it not be the greatest injustice to leave these noble sacrifices without any compensation?

But the Spanish monarch, wise and just as he was, did not commit any such blunder, and in the year 1563 he issued a royal order demarcating in a clear and precise manner the territorial jurisdiction of Guatemala, including therein that part of those lands for which she had sacrificed so much.

It was then we can truly say that the Provinces of Guatemala and Honduras were constituted, pointing out a clear, precise, and complete line as the boundary between them. The order to which I make reference is the royal order signed in Zaragoza on September 8, 1563, which, literally copied, reads as follows:

On the margin: "Declaration of the district and boundaries which the Province of Guatemala is to have."

"Don Felipe: Whereas we have resolved to change the royal audiencia of the city of Santiago of the Province of Guatemala to the city of Panama, which is the Province of terra firma, and that Luis Gusman, governor of said Province of terra firma, be transferred to said Province of Guatemala to take up therein the government of that Province, and because it is convenient to know what are the district and boundaries which the said Government of Guatemala is to have, it is our pleasure and will to state it so in this our letter. Therefore, we declare that said Government of Guatemala should be within the limits and district *from the Bay of Fonseca, inclusive, and the Ulua River, inclusive, with the towns of San Gil de Buena Vista, and the village of Gracias a Dios and the Provinces of Verapaz and Chiapa;* we command all our governors and other justices and judges of any of the aforesaid Provinces, towns, and lands to whom this letter be shown with the indorsement and signature of a public scrivener to take notice thereof in any manner, and to each and all of them who are found in their respective places and jurisdictions we command to obey whatever they be ordered to do by our governor of the said Province of Guatemala and to give and cause to be given him all favor and aid under the penalties he might impose or prescribe upon them, which penalties we hereby prescribe and give him power to impose. To execute said penalties on the property of the disobedient and rebellious ones, and neither of these shall avoid or seek to escape them by some cunning, under penalty

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of losing our grace and one hundred thousand maravedis for our exchequer. Given in Zaragoza on the eight of September, one thousand five hundred and sixty-three. I, the King, authorized by the Secretary Francisco de Eraso, the president, Don Juan Sarmiento, Dr. Vasquez, Licentiate Gomez Zapata—Dr. Francisco Fernandez de Libana—Licentiate Alonso Muñoz. A true copy of the original kept in the general archives of the Indies. Seville, August 30, 1908. The chief of the archives, P. Y. (Signed) Jose Gonzales Berger. (There is a documentary stamp of the tenth class, and one of two pesetas.)"

The boundaries between Guatemala and Honduras must be demarcated in accordance with the foregoing disposition, which, because of its antiquity as well as its legal value in accordance with the treaty of 1914, has the greatest efficacy and force.

VII.

After this royal order and prior to the date of the independence there was no other resolution to our knowledge passed by the King of Spain which might alter or modify it. After that date, some resolutions were passed altering the jurisdiction as to some points, and there were others whereby some towns were added either to Honduras or to Guatemala, but without fixing any dividing line.

Since all these resolutions are administrative they did not, of course, introduce any change as to the limits which establish the dominion and sovereignty, since it must be taken into account that inasmuch as Central America was only one single state, those jurisdictional alterations were made only for the good of the administration and not for the purpose of changing the boundaries established for dominion.

Neither can these boundaries be considered as modified for the sole reason that in the body of a royal resolution or in the course of an expedient or any other document, a town should be referred to as belonging to one province or to the other, because it was not the purpose of any such document to fix any limits nor, in the majority of cases do they deserve credit, for the reason that inasmuch as those countries were not well known, grave errors were committed either referring to towns which had already disappeared, or marking a wrong jurisdiction for them.

VIII.

From the foregoing statement, the following conclusions can be drawn:

First. That the boundary between the Republic of Guatemala and that of Honduras must be demarcated in accordance with the royal order of September 8, 1563, above referred to;

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Second. That inasmuch as Guatemala does not possess all the land to which she is entitled, Honduras is duty bound to return these lands to her;

Third. That the claims of the Government of Guatemala, supported by what has heretofore been stated, can be defined as follows: that the boundry line between the Republic of Guatemala and that of Honduras is the one demarcated in the aforesaid royal order of 1563, that is to say, the order which fixes the Ulua River as the boundary as far as its source, joining it by a straight line with the eastern side of the Bay of Fonseca, which is to remain on the Guatemalan side; and

Fourth. That Guatemala hereby declares that notwithstanding the fact that she is fully convinced that her legitimate rights extend up to the aforesaid line, moved by the spirit of conciliation and harmony and by the desire to show her high appreciation to the illustrious Government of the United States, who so generously and disinterestedly offers its mediation to solve this question, she is ready to hear and consider the propositions which the Government of Honduras may deem fit to make in regard to this matter and conclude an agreement which might prove convenient to the respective interests of both countries.

LUIS TOLEDO HERRARTE.

[Translation.]

SPECIAL GUATEMALAN MISSION,
Washington, May 27, 1918.

ESTEEMED SIR: The Honduran delegation, in the memorandum presented by its distinguished chief, Dr. Policarpo Bonilla, indicates, in support of its claims, the possession of documents which it does not specify, transcribe, nor even relate. Likewise, it describes in a vague manner the boundary line which it considers to be the demarcation of both countries. As in order to be able to form an opinion in regard to the claimed rights of Honduras, it is absolutely indispensable to have a knowledge of those documents and a clear and complete determination of the line, I am obliged to request you, as representative of the illustrious mediating Government, kindly to interpose your good offices to the end that the Honduran delegation amplify its memorandum by producing its documents and stating its claims concretely.

It is appropriate to observe that the Guatemalan delegation, in the memorandum which it presented, has related, specified, and transcribed the documents which serve as a foundation, from the point of view by which it has contemplated the question; it is therefore right

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that he Honduran delegation proceed in like manner, so that both may be placed on grounds of most perfect equality, and that, being able to enter into a complete and fruitful discussion of the rights of their respective countries, they may be able to arrive at a just determination of same.

Therefore, before replying to the memorandum of Mr. Bonilla, I require its amplification in the sense I have indicated, and in order to obtain same I reiterate, esteemed sir, the request made, availing myself of this opportunity to bear witness to my highest consideration.

LUIS TOLEDO HERRARTE.

Most Excellent Minister BOAZ W. LONG,
Representative of the Government of the United States as mediator in the boundary negotiations between Guatemala and Honduras.

[Copy.]

HONDURAN-GUATEMALAN BOUNDARY CONFERENCE,
May 29, 1918.

SIR: I have the honor to transmit to you the copy of a note, dated May 27, 1918, in which the chief of the Guatemalan Boundary Mission requests, in brief, that he be furnished with an amplification of your memorandum of May 24. In it he states he would be glad to have you make known the documents upon which you base the arguments in the memorandum to which reference has been made and he asks that there be given a clear and complete definition of the boundary line which Honduras claims.

In making this request the chief of the Guatemalan Boundary Mission refers to the fact that the documents upon which Guatemala bases her claims, were cited in her memorandum of May 24 and sets forth the necessity of receiving the amplification of your memorandum before it will be possible for him to conclude the supplemental statement it was agreed each side would submit in the near future.

At your convenience I shall be pleased to receive your reply and to transmit it to the chief of the Guatemalan Boundary Mission.

I have the honor to be, Sir, your obedient servant,

BOAZ LONG.

LA Di BWL-CCD.

Dr. POLICARPO BONILLA,
Envoy Extraordinary and Minister Plenipotentiary on Special Mission, 1738 P Street, Washington.

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[Translation.]

SPECIAL HONDURAN MISSION IN THE
UNITED STATES OF AMERICA,
Washington, May 30, 1918.

YOUR EXCELLENCY: Referring to your letter of the 29th inst., which I received late yesterday, I acknowledge receipt of the copy of the memorandum addressed to you by the special Guatemalan Mission, in which request is made for an amplification of the memorandum I presented on the 24th inst. relative to the boundary question between Honduras and that Republic.

It was agreed at a session previous to the 24th that the two delegations would present a brief memorandum explaining in general terms the dividing line claimed by each, and in the same manner the bases on which claims in question may rest.

I believe I have fulfilled what was then agreed upon, for I consider the line claimed, in the name of Honduras, as clearly defined. To mention all the documents by which I support same would have required an extended presentation, which was not the proper time for doing it, except to discuss sectionally the claims of each side.

The Guatemalan delegation was able to exhibit documents in support of their claim, because there is in reality but one. Nevertheless, I will try to oblige the honorable representative of Guatemala, by making some amplifications.

Honduras claims that the dividing line between both countries should begin at Cerro Brujo, the common boundary with the Republic of Salvador, and extend to Cerro Obscuro, the boundary recognized by the two commissions which worked on the frontier; from Cerro Obscuro extending to Portillo de los Caulotes or Coyoles, boundary recognized as common between Guatemala and Honduras and which, according to the titles, appears as the dividing mark of the old Provinces, through which passes the present line of possession, which originates from olden times; from this point it should extend to Cerro del Jicaro, western boundary of the locality of El Jute, common with land measured in Guatemala.

Approximately to this parallel both commissions recognized as the present line of possession, which in part diverges from the line established in the old titles, to the detriment of Honduras. The basis for this claim by the Honduran Commission is found in the titles and other documents exhibited at the conferences of 1908–1910, as appears in the respective minutes, for which it is unnecessary to enter into details. Those titles are known by the Guatemala Government, because the Honduran Commission gave that of the former country a copy of the documents of which they desired to obtain it;

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the same as that of Guatemala gave the Honduran Commission the copies which the latter requested of them.

The lines between the said boundaries, once accepted, should be traced according to the terms of the titles of both countries, in accordance with their antecedence, probatory value, and documents which have accumulated or may accumulate.

From the landmark of El Jicaro or rather from the one preceding it, called Cumbre del Guayabo, both commissions of engineers did some work and exchanged field data, but these were not discussed in conference nor appear on the minutes. Therefore, from said landmark I shall indicate the line which the Honduran Commission claimed. From said landmark it should continue to Cerro del Chaguite; thence along the western line of this locality over the Cerro Barbasco to Suspiro de Tisamarte, following the measurement of old titles. From this point begins the measurement of the locality of Managua, measured in Honduras in 1885, over whose western line, partly contiguous to old Pexja, in Guatemala, it extends to Rio Managua, which crosses said locality; and along said river the line follows to its confluence with the Motagua, this line being the one indisputably recognized before 1847 and even many years after, corresponding to the one recommended by Larreinaga and Marure, citing Juarros, in the instructions which, at the instance of the Guatemalan Government and for the use of the Guatemalan Boundary Commission they issued in 1844. Even up to that time Guatemala recognized, as appears in said instructions, the whole course of the Motagua to the sea as the dividing line.

And I have said in my memorandum that if Guatemala had continued to accept that line, without claims involving the extension of their territory into Honduras, this boundary question would have been avoided.

The Honduran Commission would have claimed that from said confluence of the Managua with the Motagua a line should be drawn along the Golfo Dulce, as I stated in my memorandum and shall later repeat.

As chief of the Honduran delegation at this conference, I believe, as did the commission of my country at the frontier, that the line should be drawn principally on the basis of land titles in the old and other documents which may shed light on the subject, in conformity with the agreement governing us; but if merely to seek an invariable natural boundary a line is to be drawn, although there may be no documents upon which to base it, I have indicated and again repeat, that the clearest and most rational boundary is: by drawing a straight line from Cerro Obscuro to the ravine of Zarzal, above the settlement of the same name, at a distance not quite three kilometers, which could easily be designated by landmarks of ma-

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sonry; and following the course of said ravine or creek, that of the River Mapa, that of the Jupilingo, that of Copan or Zacapa, as far as the Motagua, continuing along the latter to its confluence with the Managua. This is an unalterable fluvial line. But, it is well understood, this last proposition has a conditional character, as a counteraction to the claim which the Guatemalan Commission maintained at the frontier conferences.

From the union of the Motagua and Managua, to draw a straight line, whose distance I can not give precisely, but which approximates 20 kilometers, to the nearest point southwest of the Lake of Izabal or Golfo Dulce: to follow the western shore of said lake and from its northwestern border to seek a straight line coinciding with the dividing line between Guatemala and Belice, which makes an angle on the River Sarstoon. But I do not firmly propose this line, because I already pointed out in my memorandum that, owing to its prohibition by the Guatemalan authorities, the Honduran engineers could not study nor even draw same.

The basis for this claim from the Motagua to Belice lies in the following documents, among others of minor importance or of which I only have advice and am trying to secure:

(A) 1582. Library of the Royal Academy of History: "Report of all the towns in the Province of Honduras, etc." In describing San Juan de Puerto de Caballos it enumerates the towns of Masca, Amatique, and Yama.

(B) 1583. General Record of the Indias, Sevilla. Audience of Guatemala: "Letters and documents of the secular chapters, etc." Petition of the city of Valladolid of the Valley of Comayagua, Province of Honduras, in regard to not changing the port of Puerto de Caballos to Manabique.

(C) 1606. "Petition of the city of Trujillo to His Majesty not to withdraw the artillery from said port for Manabique or Santo Tomas de Castilla, assuring that the latter is in the Province of Honduras."

(D) 1608. General Record of the Indias, Sevilla: "Letter of the governor of Honduras, Don Juan de Guerra y Ayala, relating his visit to his Province and complaining against the project of the captain general and President of the Audience of Guatemala to transfer the port of Puerto de Caballos to that of Santo Tomas de Castilla." He demonstrates the reasons existing for not doing so and the injury Honduras would suffer, adding: "* * * and even of the port of Santo Tomas de Castilla jurisdiction has been taken away from the governors by reason of being of this Government and royal officials of this Province to exercise their offices here and the bishop to establish his curates and vicars, etc."

(E) 1684. General Record of the Indias, Sevilla: "Report of the royal audience of Guatemala, to His Majesty, on the collection of

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fines, etc.," in the Indian towns of its district, and gives an account of collections in this respect. In speaking of the towns of the jurisdiction of San Pedro, it says: "That of Masca, if different from that of *San Pedro Masca of the Court of Amatique*, must pay three reales, and if the same, no fines are to be paid."

(F) 1723. General Record of the Indies, Sevilla. Audience of Guatemala: "Letters and documents of the President and hearers of said audience." The hearer, Don José de Rodezno, proposes that a fort be established at the port of Omoa, destroying the one at Castillo de San Felipe, on the Golfo Dulce, indicating the advantage of being able to save the wages of the warden, in which capacity the governor of Honduras can act.

(G) 1728. Description of the Kingdom of Guatemala, its northern coast, by Pedro Rivera Márquez. This document is in the office of hydrography of Madrid. Chapter XII contains the following paragraphs: "At the Cabo de Tres Puntas (Cape of Three Points) inside, and on the bay facing south-southwest, is what is called Sto. Tomas de Castilla, where ships of registry anchor. The *Macurises River* is large, capacious, and navigable for boats, etc.," and further: "*From the Gulf to this Bay it belongs to the Government of Honduras*, in whose capital, which is the city of Comaiagua, resides, etc."

(H) 1752. "Hydrographic News of North America," by Ignacio Saint Just, frigate captain, acquired on the trip he made to the gulf of Honduras on the *Flora*." Therein one reads: "As regards the necessity of vessels to be used in protection of this gulf, they should not draw more than 10 feet, even to go straight to any of the ports of the coast, such as Trujillo Triunfo de la Cruz, Puerto del Plantanal, Puerto de Sal, Puerto de Cavillos, Puerto de la Concepcion de Omoa, Puerto de Santo Tomas de Castilla, Golfo Dulce of Santo Tomas de Castilla, which is opposite the mouth of the Honduras River."

(I). And finally, undoubtedly in consequence of the discord which had arisen as to change of ports and diverse claims referred to in previous documents, the King issued his royal decree, dated at San Ildefonso, on August 23, 1745, which in favor of Col. Don Juan de Vera contains the title of governor and general commander of the Province of Honduras, specifying that his jurisdiction will be said Province and those included throughout the bishopric of Comayagua, of the department and district of the alcaldia mayor of Tegucigalpa and of *all the territories and coasts included from the terminating point of the jurisdiction of the governor and general captain of the Province of Yucatan to the Cape of Gracias a Dios.*

The two lines which touch the Golfo Dulce remain subject to being definitely fixed at a discussion, principally having in view a good map of Guatemala and Belice. In this respect I am proceeding, as did the Guatemalan delegation in its memorandum, as it does not name the point at which the straight line on the Gulf of Fonseca is to end.

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I have said and repeat that any document which may be shown me and contradicts advantageously those to which I have referred, may lead me to rectification; and I add, regarding these last lines which I have mentioned, that I do not require, as does the Guatemalan delegation, another royal decree to contradicts the proofs I present, especially the one of provision of a governor in Don Juan de Vera; and it will suffice for me to acquire the conviction that at the time of the independence said territory did not belong to Honduras.

Although delaying my work to reply to the memorandum of the Guatemalan delegation, I have wished to comply, as far as possible, with their desires expressed through the honorable medium of Your Excellency. This delay, however, and the fact of having received, on the 28th inst. at night, the English translation of said memorandum, will prevent me from terminating that work within the 10 days we had arranged as probably sufficient time for the delegations to prepare their replies to the claims of one another.

For the reason stated, even tonight I am to make my announced trip to New York.

I have the honor, Your Excellency, to place myself at your disposal, etc.,

P. BONILLA.

[Copy.]

HONDURAN-GUATEMALAN BOUNDARY CONFERENCE,
May 31, 1918.

SIR: I have the honor to acknowledge your note of May 27 in which you requested an amplication of the memoranda submitted by the chief of the Hunduran Boundary Mission.

Your request was communicated to Dr. Policarpo Bonilla and it gives me pleasure to transmit herewith his reply, which was received this morning.

I have the honor to be, Sir,
Your obedient servant,

(Signed) BOAZ LONG.

Enclosure: From Dr. Policarpo Bonilla.

DR. LUIS TOLEDO HERRARTE,
Envoy Extraordinary and Minister Plenipotentiary on Special Mission, Hotel Lafayette, Washington.

[Translation.]

SPECIAL GUATEMALAN MISSION,
Washington, June 3, 1918.

YOUR EXCELLENCY: Together with your esteemed communication under date of May 31, I have had the honor of receiving a copy of the communication addressed to you by Dr. Policarpo Bonilla, in

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reply to my request for amplification of the memorandum which he presented at the conference held on May 24.

In expressing to your excellency my most cordial thanks for your opportune and able intervention in this matter, I would earnestly request that, if not inconvenient, you kindly inquire of Dr. Bonilla when, approximately, he will be in position to reply to the memorandum presented by me, in order to know the time that my delegation may have to prepare the corresponding reply.

I avail myself of this opportunity to reiterate to you the assurances of my highest consideration.

(Signed) LUIS TOLEDO HERRARTE.

Most Excellent Minister BOAZ LONG,

Representative of the United States Government as mediator in the boundary negotiations between Guatemala and Honduras, Washington, D. C.

[Copy.]

HONDURAN-GUATEMALAN BOUNDARY CONFERENCE,

June 5, 1918.

SIR: I have the honor to advise you that I received, on June 3, a note from Dr. Luis Toledo Herrarte, in which he acknowledges the receipt of the amplification, dated May 30, of the memorandum that you read at the last session of the conference on May 24, and requests to be advised regarding the approximate date when you will be ready to present the supplemental memoranda, now under preparation.

For your more exact information, there is enclosed a copy of the original note, to which reference has been made above.

I have the honor to be, sir,

Your obedient servant,

(Signed) BOAZ LONG.

DR. POLICARPO BONILLA,

Envoy Extraordinary and Minister Plenipotentiary on Special Mission, 1738 P Street, Washington.

Enclosure: From Dr. Luis Toledo Herrarte, June 3, 1918.

[Translation.]

SPECIAL HONDURAN MISSION
IN THE UNITED STATES OF AMERICA,

Washington, D. C., June 11, 1918.

DEAR MINISTER: I refer to your favor of the 5th inst., which reached me day before yesterday, together with copy of the one addressed to you by Dr. Luis Toledo Herrarte.

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In reply, I would advise that my memorandum in answer to the one of the representative of Guatemala will be ready to-morrow; but I must first send it to my attorneys in New York, and they have advised me that they require at least two weeks to study the question, in regard to which they have conferred with Mr. Anderson, the attorney for Guatemala.

I believe that there will be no objection on the part of the Guatemalan delegation to compliance with the wishes of said attorneys.

I am, with pleasure,

Faithfully, yours,

(Signed) P. BONILLA.

To Minister BOAZ LONG,

Representative of the United States Government as mediator in the boundary negotiations between Honduras and Guatemala.

[Translation.]

SPECIAL HONDURAN MISSION
IN THE UNITED STATES OF AMERICA,
Washington, D. C., June 22, 1918.

ESTEEMED SIR: I have the honor to inform you that I have ready my reply to the memorandum presented by the Guatemalan commission on May 24 last.

I beg you to advise said commission to this effect, so that they may name the date on which they desire another session of the conference, consulting at the same time your convenience.

I would thank to advise me of the decision and beg to remain

Yours, very truly,

(Signed) P. BONILLA.

To the Hon. BOAZ LONG,

Representative of the United States Government as mediator in the boundary negotiations between Honduras and Guatemala.

MINUTES OF THE SESSION OF JUNE 25.

The meeting was called to order at 10.30 a. m., the Hon. Boaz Long presiding.

Aside from the usual attendance of the members of the Honduran and Guatemalan Missions, there were present at the session the Hon. J. H. Stabler, of the Department of State, Mr. Chandler Anderson, counsel for Guatemala, Mr. Emory R. Buckner, Mr. Edward Schuster, and Mr. Augustine P. Barranco, attorneys for Honduras.

The minutes of the meeting of May 24 were read and approved.

Dr. Policarpo Bonilla then read his reply, dated June 22, to the Guatemalan memorandum of May 24.

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Dr. Toledo Herrarte followed by reading the Guatemalan reply, dated June 25, to the Honduran memorandum and amplification, dated, respectively, May 24 and 30.

Dr. Toledo Herrarte announced that he would respond in writing to the paper read to-day by Dr. Policarpo Bonilla, at his earliest convenience.

Dr. Policarpo Bonilla also expressed a desire to submit a memorandum in response to that which Dr. Toledo Herrarte had just read.

Both sides agreed to place in the hands of the mediator the memoranda subsequently to be submitted supporting their respective cases, instead of meeting at joint conferences for the purpose of reading them. This course was proposed in the belief that the proceedings would be expedited thereby.

It was then suggested by the chairman, Mr. Long, that after a study of the memoranda just read and those to be submitted hereafter by the parties in interest, a time be set for concluding the examination of all papers, maps, etc., in order to accelerate the proceedings.

With this accomplished the chairman thought the attorneys might submit briefs in closing the written arguments, wherein they could bring out clearly the cardinal points of the boundary missions they represent and thus enable the Secretary of State, with these briefs before him, to examine the case in all its phases.

In this connection Dr. Toledo Herrarte again referred to a plan he had in mind, which in his opinion would greatly simplify the procedure and contribute to the early solution of the problem. Dr. Toledo Herrarte offered to mention the plan in his next memorandum.

The chief of the Honduran delegation observed that, as the memoranda of each side had referred to maps and other documents, without, however, including them all, it would be advisable to have both parties submit all the documents, maps, etc., on which they rely, for review by the Secretary of State. The chairman manifested his readiness to study and refer to the Secretary of State all the evidence submitted.

At 1 p. m. the meeting was adjourned in the understanding that the next session will be held on the call of the chairman.

HONDURAN REPLY OF JUNE 22, 1918, TO THE CLAIM OF GUATEMALA IN THE BOUNDARY DISPUTE WITH THE REPUBLIC OF HONDURAS.

On May 24 last, the representatives of the Governments of Honduras and Guatemala, as heads of their respective delegations, as-

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sembled for the purpose of discussing the boundary line, presented our memoranda containing the claims of each of the high parties.

On the 27th the representative of Guatemala, through his excellency, Mr. Minister Long, requested the amplification of my said memorandum, with which request I complied on the 30th, at which time I expressed the principal grounds of the claim of Honduras without entering into details, inasmuch as they will have to be given in the oral arguments with the documents in hand.

At the session of May 24, as appears in the minutes thereof, his excellency, Mr. Long, on behalf of the mediator, suggested that in the supplementary memoranda which the representatives of Honduras and Guatemala should submit, each should include therein a discussion of the periods not covered in those first submitted; since the memorandum of his excellency, Dr. Toledo Herrarte dealt with the early colonial period and my own dealt mainly with the period beginning with the emancipation of the two Provinces.

I am glad to follow the suggestion of his excellency, Mr. Long, but believe that I shall sufficiently comply therewith by the simple method of commenting upon the exposition of the Guatemalan representative, which refers exclusively to the colonial period. I believe thus, because the history of that epoch, however interesting, can not in itself furnish the solution of the present controversy. Its importance in the case is limited to that of the decrees or acts in respect of the boundaries of the provinces of Honduras and Guatemala; and as these were the patrimony of the Kings of Spain, the latter could freely divide the territory or alter the boundaries thereof, which as a matter of fact they did from time to time, as history shows. Thus the historical interest increases as events draw nearer to the period of emancipation. A binding treaty, duly ratified by the Governments of Honduras and Guatemala, that of August 1, 1914, expressly provides that the primary basis for the determination of the boundary line of the two countries shall be "the extent of territory that comprised the ancient provinces of Honduras and Guatemala at the date of their independence." The adjustment of the boundary, which is the purpose of the present mediation, is therefore precisely the investigation and ascertainment of the territorial limits of the ancient provinces as they stood on September 15, 1821; and once these limits are ascertained, the treaty provides (Article VII) that a boundary line may be sought which shall more fully satisfy the requirements or convenience of both countries, by adopting the system of equitable compensation provided for in the rules and practices of international law.

Happily, for the success of this conference, the representative of Guatemala has expressly admitted this doctrine in his memorandum

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of May 24 last, wherein he states that the boundary of the two Republics shall be based upon "the comprehension of the territory which constituted the former provinces of Honduras and Guatemala at the date of their independence," and that "possession shall have value only when it is just, legitimate, and founded upon the general principles of law and the rules of justice which on this subject have been sanctioned by the law of nations."

I.

Before entering into an examination of the claim of Guatemala I desire to make some remarks on that of Honduras.

The claim presented by me is not new, nor has it been expressly created for this conference. It is the same one maintained by the commission of Honduras in the conference held on the frontier from 1908 to 1914. It is based on documents exhibited at that conference and on others subsequently obtained up to the parallel of the ruins of Copan. From that point up to the confluence of the Managua River with the Motagua the line rests on public documents of indisputable faith; and where it departs from the line marked by said river—which is the line recognized as such both in fact and since ancient times by both countries—it is based on documents obtained in greater part after the Government of Guatemala, ignoring the line of the river, first claimed through diplomatic channels, that the boundary was the Merendon chain of mountains.

The line from the said confluence of the rivers to Golfo Dulce and beyond to British Honduras, was suggested by the Secretary of Foreign Relations of Honduras in reply to the claim to territories situate to the right of the Motagua made by the Foreign Minister of Guatemala in 1894; it was recommended by Vallejo, the historian, in 1898, when he made a study of the question; it is marked out in part on the map prepared by Engineer E. C. Fiallos from 1903 to 1907 and published in 1909; and the Government of Guatemala states that it is cognizant of this claim, for it is so affirmed by its representative in the following paragraphs of his memorandum:

(1) From these historical facts, or the landing of Gil González Davila at Amatique, Honduras has attempted on several occasions to deduce that her national sovereignty extends to that place.

(2) Having contested the arguments to claim that the sovereignty of Honduras extended to the coast of Amatique and Golfo Dulce. there remains for us to examine how the Province of Honduras was constituted at that time.

(3) Among the latter (he is speaking of the orders of the King of Spain) is found the appointment of Diego Lopez de Salcedo as the first governor of Honduras. Some Hondurans, among whom is to be found Father Vallejo, insist in holding that by reason of this appointment the Province of Honduras became definitely and legally established; and that inasmuch as by reason of said ap-

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pointment all the villages, cities, and places which were inhabited on that date formed part of its gubernatorial jurisdiction and San Gil de Buenavista was on the coast of Amatique, the sovereignty of Honduras begins from there.

The documents mentioned in the amplification of my memorandum and those which confirm them, and which I will mention hereafter, show that Honduras, with the approval of the King and of his delegates, was in possession of the whole or a part of the territory which it claims on the other side of the Motagua from the time of the conquest (1524) until said possession was expressly sanctioned by real cedula (royal rescript) of August 24, 1745, when the limits of the jurisdiction of Col. Juan de Vera as governor of Honduras were fixed as beginning at the boundary of Yucatan. So that possession *de facto* and *de jure* was maintained thus for nearly three centuries, to the date of independence. These rights could have been invalidated only by some other similar document of equal or greater force; and it is clear that no such document exists, because Guatemala has not produced them, and the maps published from the seventeenth century until 1824 show the territory of the Province of Honduras, with some variations, always on the other side of the Motagua up to the Gulf of Amatique or to the Golfo Dulce.

Honduras could have claimed the right to the territory of the partidos (districts) of Chiquimula and Zacapa, basing such contention on a real provision of 1748, in which the lieutenant governor and justicia mayor of said partidos (districts) are admonished to obey the orders of the governor of Honduras; but as I am unable to establish at present that Honduras ever had possession of that territory at any time, it has seemed to me that such a claim introduced in this conference would be disrespectful to the mediator, who has brought about these conferences for the purpose of trying to effect a conciliation and not for the enlargement of the claims of the high parties. I have also believed that such a claim would wound the national sentiment of the Guatemalan people because it would understand that if such a claim were made seriously it would signify the purpose of taking forcible possession of the territory so claimed at the first favorable opportunity, and with just reasons all of her sons would prepare for the defense.

II.

I now pass to an examination of the claim of Guatemala. In my memorandum I pointed out that until the conference regarding boundaries held on the frontier in 1847, the dispute was between town and town or rather village and village and not between States, and it continued thus for many years, although already in the maps edited by the Government of Guatemala or copied therefrom, the

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mountains appeared as the dividing line. Furthermore, until 1894, there was no diplomatic claim on the part of the Guatemalan Government to the territory lying west of those mountains, as previously stated.

Notwithstanding, neither in those official maps nor in any writing whatever in the Guatemalan press nor in any other manner that I know of, has it even been intimated that Guatemala might claim a piece of Honduran territory, such as it now lays claim to, representing approximately one-quarter of the total area of the latter Republic and nearly one-half of its population. With the line proposed there would lie in Guatemala at least the ports of Cortez and Omoa on the Atlantic and the departments of Cortez, Santa Barbara, Copan, Ocotepeque, Gracias, Intibuca, La Paz, and Valle, and parts of the districts of Comayagua, Tegucigalpa, and Choluteca, and the port of Amapala on the Pacific.

Never for a single day was this territory in the possession of Guatemala, because the real cedula (royal rescript) of September 8, 1563, which is invoked, was not carried into effect for the reason which I will hereinafter state. On the other hand, Honduras has had possession thereof for nearly four centuries, both before and after the date of said cedula (rescript), as I propose to show.

III.

For the present, I shall not follow step by step the historical account given by the learned representative of Guatemala, because it would not be pertinent to the object of my inquiry; but I do propose to rectify certain errors and supply certain omissions which might have a bearing on the question.

1. The statement that Gil González Davila in 1524 sailed from Santo Domingo bound for Puerto Caballos is not borne out by the facts, the place was unknown and it was simply his first point of arrival. As he was unable to make a landing there, he sailed on to the Gulf of Amatique, entered the Golfo Dulce and founded San Gil de Buenavista, "the first town established by the Spaniards in the Province of Honduras" (Hibueras or Higueras), as stated by the historians, Jose Milla (History of Central America, pages 42–43, Vol. I, edition of 1879, Guatemala), and Domingo Juarros (Compendium of the History of the City of Guatemala, page 42, vol. I, edition of 1809, and page 172, vol. II, edition of 1818, published in Guatemala).

2. Neither does it seem to be correct to say that San Gil de Buenavista remained entirely uninhabited; and we must believe Justo Zaragoza, who states that what the conqueror of Guatemala, Pedro de Alvarado, did, was to repeople the place (Commentaries

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to Recordacion Florida of Fuentes y Guzman, page 284, vol. II, edition of 1883, Madrid). This is confirmed by the statement of the King in the two cedulas (rescripts) of September 8, 1563, one of which is set out in the Guatemalan memorandum, showing that San Gil de Buenavista was in existence at that time and formed a part of the Province of Honduras. The other cedula will be hereinafter set forth.

3. Neither is it borne out by the facts that the boundaries of Honduras were defined prior to 1530 and that they reached only to the town of Naco, where Gil González Davila had been, and where he was assasinated by Cristobal de Olid; for Gil González Davila had already founded San Gil de Buenavista in Honduras, as I have previously stated.

4. That was a period of violent changes and of rival ambitions and struggles between the conquerors. This explains why Pedro de Alvarado should have arrived later (1530-1539) and founded towns and cities such as Puerto Caballos, San Pedro Sula, and Gracias a Dios, and that differences and discord should have arisen therefrom, first with the governor of Honduras, Diego de Albitez, and later with the adelantado Francisco Montejo, the new governor of said Province, who was at the same time governor of the adjoining Province of Yucatan. The memorandum considers the differences with Albitez as having been settled by the King in favor of Alvarado, although according to a letter from the latter, to which I shall make reference further on, he was far from feeling satisfied therewith. The dispute with Montejo was ended by arrangements commenced in 1536 in the island of Cozumel off the coast of Yucatan and concluded at Gracias a Dios of Honduras in 1539. Thereby, Montejo ceded to Alvarado the Government of Honduras (the whole and not a part of its territory) in exchange for other lands and money; so that Alvarado became governor thereof and also of that part of Guatemala which was the beginning of the formation of the Kingdom of the same name, governed later on by a captain general. But the governancy of Honduras passed into the hands of Alvarado (1539) with the same territory which in 1536 it had and which he described in a letter to the King (1536), wherein it is shown that Guatemala had neither coast nor port on the Atlantic, for which reason he had then (1536) requested the port of Coatzacoalcos in Mexico; and this must have been the case as Honduras bordered on Yucatan. This statement is confirmed by Justo Zaragoza, page 328, Vol. II, edition above cited (Exhibit I); Jose Milla, page 300, Vol. I, in work cited (Exhibit II); letters of Pedro de Alvarado of 1536 and 1539 (Exhibit III), and Demarcacion y Division de las Indias (Boundaries and Division of the Indies), published by Torres de Mendoza in his Coleccion de Documentes Ineditos de Indias (Collec-

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tion of Unpublished Documents of the Indies), Madrid, 1866 (Exhibit IV). The very memorandum of the representative of Guatemala confirms the fact that his country had no coast on the Atlantic after he transcribes the letter written by Geronimo de San Martin to the King in 1537, inasmuch as San Martin states therein that "The governancy of Guatemala lies inland in between" (i. e., between Yucatan and Honduras).

5. I deem it another grave error when he states that with the conquest of Copan "there came under the dominion of Guatemala all of that region up to the sea and that since that it has possessed the same peacefully and with plenary right." However much I may respect the opinion of the representative of Guatemala, I prefer to follow the version of Milla and Juarros, who are agreed in stating that Hernando de Chaves and Pedro de Amalin were sent by Pedro de Amalin were sent by Pedro de Alvarado to subjugate the people of Chiquimula; and that having reconquered said Province, they decided to *go on to Copan* in order to punish the cacique (chief), Copan Calel, who had instigated the uprising of his neighbors (Milla, page 220, Vol. I; Juarros, page 133, Vol. II, above-mentioned works). I do not know whence the representative of Guatemala can have deduced from that act that the dominion of his country over this region was established up to the sea. This deduction is contradicted by the documents heretofore cited.

6. I also consider erroneous the statement that Guatemala showered benefits on Honduras, "spending there its men, its blood, its resources, its activity, and its intelligence, parts of its own life," and thereby deserved as compensation the conquered territory, and to make this dependent on the fact that its governor, Pedro de Alvarado, had gone to Honduras in aid of his compatriots. Guatemala and Honduras, as nations, were not in existence at that time. There were in both countries a number of daring and heroic Spaniards who were conquering for their country and in their own interests, the land which belonged to the natives, and Pedro de Alvarado did not occupy Honduran soil as governor of Guatemala but as governor of Honduras, as has been shown. If the process of reasoning employed by the representative of Guatemala were correct, it would have to be confessed that Guatemala belongs to Mexico because Pedro Alvarado was a lieutenant of Cortez and because the latter came from that country to Honduras and on the way traversed Guatemalan soil; and with similar rights Guatemala might claim the recovery of dominion over the whole territory of San Salvador because it had been conquered by the same Alvarado.

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IV.

Having made these historical corrections, I shall proceed to enumerate briefly the documents which establish the ancient and continued possession of Honduras in the territory claimed by Guatemala.

(*a*) Year 1536. Distribution of the towns of San Pedro Sula by Pedro de Alvarado, wherein appeared *San Gil de Buenavista* (which proves that it was still in existence) and *Chapulco* on the road from the Province of Guatemala (on the Motagua River). Torres de Mendoza, pages 22–27, Vol. XVI, above cited.

(*b*) Year 1582. List of all the towns in the Province of Honduras with a description of the various cities, their form of government, etc., and in referring to Gracias a Dios it enumerates, among other towns, those which we shall now mention here because they are well known or because they are of special interest in this dispute: Tencoa (now Santa Barbara), Ocotopeque, Camasca, *Chapulco* (on the Motagua River), Quezailica, and *Copan*. In describing San Pedro Sula it enumerates the following: Ilama, Toloa, Ticamay, Quelequele Itibombo (all on the Ulua River); and in referring to San Juan de Puerto Caballos it enumerates those of *Masca*, the town of *Amatique* and Yama. He adds, "Which said list of said towns and of the other things therein contained I, Alonso de Contreras Guevara, governor and justicia mayor (chief justice) of His Majesty for this Province of Honduras did cause to be made in compliance with a royal rescript of His Majesty and his Royal Council of the Indies to me addressed at Portalegre on March 5, 1581, and it is true and correct and is written on eight folios of paper and executed in the city of Valladolid y del Valle de Comayagua on April 20, 1582 (Library of the Royal Academy of History, Madrid, docket of geographic accounts of America).

(*c*) Year 1583. Record of proceedings had on the petition of the city of Valladolid del Valle de Comayagua against changing the port from Caballos to Manabique on account of the many advantages which the former offers and the disadvantages attendant upon the latter. General Archives of the Indies, Sevilla.-Simancas.-Secular Audencia of Guatemala, estante 63, caja 6, legajo 43.

(*d*) Year 1606. Letter of the "Cabildo secular de la ciudad de Trujillo" (secular council of the city of Trujillo) to the King, protesting against the attempt of the President of Guatemala to remove the artillery from the city of Trujillo to the new port of Santo Tomas de Castilla or Amatique, which he affirms is situate on the coast of the Province of Honduras. June 9, 1606. General Archives of the Indies, Sevilla, estante 64, cajon 1, legajo 1.

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(*e*) Year 1608. Letter of Governor Juan de Guerra y Ayala to His Majesty, protesting against the project of the captain general and president of the audiencia of Guatemala for the transfer of the port from Caballos to Santo Tomas de Castilla. He affirms that the former belongs to the governancy of Honduras but that the latter functionary has taken it away from him. General Archives of the Indies, Sevilla, estante 63, cajon 6, legajo 39 (Exhibit V).

(*f*) Year 1684. Original records sent to the King by the audiencia of Guatemala regarding the form undertaken for collecting the fines imposed for the exchequer, etc., in the Indian villages in this district; and gives an account of the moneys collected for that purpose. In enumerating the taxed villages of the Province of Guatemala and those appearing under Chiquimula, there does not appear any of those which Honduras possesses at present and which Guatemala claims belong to her. In enumerating those of the Province of Comayagua, it mentions the partidos (districts) of Tencoa (now San Barbara), Olancho, Trujillo, Ulua River, and the jurisdiction of San Pedro, Yoro, Gracias a Dios, and Comayagua, sections which comprise those which now constitute the departments of Cortez, Santa Barbara, Comayagua, La Paz, Intibuca, Gracias, Copan, and Ocotepeque; it conclusively states that said seven districts form the Province of Comayagua. Archives of the Indies, Sevilla, estante 63, cajon 6, legajo 29.

(*g*) Year 1685. Report of Lope de Sierra Osorio regarding the fortification of Omoa and other points in Honduras and Guatemala. Among other things, he states: "I have noted what your majesty tells me in your paper of the 6th instant by order of the junta de guerra (war board) that I should in accordance with the present state thereof, report as to which of the two places, that of the port of Cavallos or that at Omoa or any other place in the *Province of Honduras* it would be most advisable to construct the fortress proposed by Francisco de Castro Ayala in his letter of March 19, seventy-four, and which he undertook, etc." Archives of the Indies, Sevilla, estante 65, cajon 6, legajo II.

(*h*) Year 1723. Letter and file of the president and judges (oidores) of the audiencia of Guatemala, Jose de Rodesno, judge (oidor) of Guatemala.-informs the King of the original proceedings which by commission of the audiencia he instituted against the universities and individual defendants accused of illicit trade. After outlining the steps which he had taken to that effect in the Province of Honduras whence he writes to His Majesty he recommends the establishment of a fortress at *Puerto de Omoa* and proposes that there be transferred to said port and fortress the garrison and prison then at fortress of San Felipe of Golfo Dulce, which should be destroyed,

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because of its bad condition and roadstead, setting forth at the same time the advantages among others of being able to dispense with the salary of the castellano (keeper of the fortress) because this could be done by the governor of Honduras at a small increase in his salary over that which is customarily paid to the governor of said Province. General Archives of the Indies, Sevilla, estante 65, cajon 4, legajo 3.

(*i*) Year 1728. Description which is found in this Kingdom of Guatemala on the coast on the north by Pedro Rivera Marquez, chapter 12. He asserts among other things that from Golfo Dulce to the Bay of Trujillo it belongs to the governancy of Honduras. Bureau of Hydrography of Madrid, Volume II of the collection entitled "Hydrographic notes of Meridional America," also in the work entitled "Continente Americano, Argonauta de las costas de Nueva Espana," etc., by the same author, Rivera Marquez, Library of Congress, Washington (Exhibit VI).

(*j*) Year 1752. Account of several notices of the Gulf of Honduras made by Captain Ignacio St. Just, acquired in a voyage which he made on board the frigate *Flora*. After his account of the voyage he states, "* * * for which it is necessary that vessels which are to serve as guards along this coast shall not draw over 10 feet of water, also to go in a straight line to any of the ports of the coast, such as Trujillo, Triunfo de la Cruz, Puerto del Plantanal, Puerto de Sal, *Puerto de Cavallos*, Puerto de la Concepcion de *Omoa*, Puerto de *Santo Tomas de Castilla*, Golfo dulze de Santo Tomas de Castilla, which is opposite the mouth of the Honduras River." Hydrographic Notes, Septentrional America, Vol. II, page 87.

(*k*) Year 1770. Real cedula (royal rescript) to the president of the audiencia of Guatemala approving the orders given by him in his visit to the port of Omoa. It mentions *San Pedro Sula*, *Gracias a Dios and Tencoa*, affirming that they belong to the governancy of Comayagua. It also refers to the project for reestablishing an hacienda (ranch) at Cuyamel, five leagues from *Omoa* and as being in its jurisdiction. (Exhibit VII.) General Archive of the Indies, Sevilla, estante 100, cajon 2, legajo 9.

(*l*) Year 1772. Statement which shows the Provinces, partidos (districts) and their annexes which belong to the Government of the Kingdom of Guatemala. In the alcaldia mayor of Tegucigalpa it includes the town of *Choluteca*, and the village of Nacaome (now departments of Choluteca and Valle) included in the claim of Guatemala. In the Province of Comayagua it includes the partidos (districts) of Gracias, *San Pedro Sula* and *Tencoa* (now Santa Barbara) comprised within the present claim of Guatemala. Signed by Juan Gonzales Bustillo. General Archive of the Indies, Sevilla, estante 101, cajon 3, legajo 20.

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(*m*) Year 1779. Account of the minerals of gold and silver discovered in the Provinces of Guatemala. In the Province of Tegucigalpa, in the partido (district) of *Langue* (now in the department of Valle), 16 leagues west of that of San Martin, there are silver mines and gold mines of very good quality, but filled with water and only some mulattoes can work therein. In the villages of *Curaren* and *Reitoca* (department of Tegucigalpa) there are some mines of silver mercury which yield 6 marks per heap, but they have been abandoned because they are distant 30 leagues from Tegucigalpa in the west, and through lack of repartimiento people (Indians held under servitude) to work them, which will be remedied by the annexation to Tegucigalpa of the five villages of Segobia, named Somoto, Yalaguina, Totogalpa, Mazonte, and Talpaneuca. Continuing, it says: "In the partido (district) of *Gracias a Dios, Province of Comayagua*, about 50 leagues west, some veins have been explored which are said to contain high-grade mercury silver, but they are not worked for lack of experts and lack of attachment to such work by the inhabitants of the mines." Further on, as follows: "In the Province of San Salvador, partido (district) of San Miguel, on the line between Tegucigalpa and *Conchagua* (Gulf of Fonseca), is the mining section called Tapanco, where there have been mines, etc.," and speaking of the gold and silver mines that there are in the Province of Comayagua district of the Kingdom of Guatemala it mentions "*El Zerro de Sula, partido de San Pedro*," an ancient mine about 40 leagues from this city which is to-day of no use. The mining section, formerly *San Andres*, now named *Zaragoza* (now in the department of Copan), 60 leagues to the west of this city in the Valley of Cucuyagua, maintains a few gurruguces." Madrid Royal Library, Ayala miscellany, Vol. X, folios 171 to 177.

(*n*) Year 1784. Descripcion Geografica—Moral de la diocesis de Guatemala (geographical moral description of the diocese of Guatemala), made by its archbishop, the illustrious Pedro Cortez y Larras. Copy of the descriptions of the parishes of Conguaco, Aguachapan, Apaneca, Jutiapa, Xalapa, Xilotepeque, Mita, Metapas, Quesaltepeque, Jocotan, Chiquimula, and Zacapa. This document was presented by the boundary commission of Guatemala in 1847 and in the conferences of 1908 and 1910, Minutes No. 16, for which reason it can not be objected to by Guatemala. It was presented by said commission in order to prove that the Valley of Copan was included in the jurisdiction of the diocese of Guatemala, but it is the only place of those possessed by Honduras which is mentioned in said description. General Archive of the Indies, estante 103, cajon 1, legajo 14.

(*o*) Year 1801. "Estado general de los bienes de comunidad de los pueblos de Indios de la intendencia de Comayagua, segun el corte practicado por el Comisionado Don Gaspar Pilona" general state-

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ment of the community property of the Indian villages of the intendency of Comayagua according to the audit made by the Commissioner Gaspar Pilona). It appears in "Testimonio del expediente instruido en virtud de las comision dada a Don Gaspar Pilona para la formacion de cuentas atrasadas en las cajas de Comayagua" (certified copy of the record of the proceedings had under the commission given to Gaspar Pilona for the formation of accounts in arrear of the treasury of Comayagua). In said statement there are enumerated many villages of the departments which are comprised within the present claim of Guatemala. It is dated Comayagua, February 16, 1801. General Archive of the Indies, Sevilla, Audencia of Guatemala. Inventory records year 1807, estante 101, caja 2, legajo 26.

(*p*) Year 1804. Account of the visit made by the governor and intendant of Honduras, Ramon de Aguiano, addressed to the King. He affirms that among the subdelegations of the province of Honduras are *Gracias a Dios*, *Tencoa* and *San Pedro Sula;* and he records the fact that in that of Tegucigalpa are comprised the towns of Aguanqueterique (now in the department of La Paz), Goascoran and Nacaome (now in the department of Valle) and Choluteca (in the department of the same name).

(*q*) Year 1815. The governor and intendant of Honduras, Juan Antonio Tornos, sends to the Minister of State for the Universal Department of the Indies, a plan which embraces the coast of the Kingdom of Guatemala and the Province of Yucatan from the port of Trujillo. In said plan is marked the dividing line of the Province of Comayagua to the west of the Point or Peninsula of Manabique, dated in Comayagua on September 21, 1815. General Archive of the Indies, Madrid, estante 102, caja 4, legajo 14.

Father Juarros, in his work above cited, Vol. I, pages 40–44, says that the Province of Honduras was governed by the intendent of Comayagua, who had seven subdelegates in Tegucigalpa, Gracias a Dios, San Pedro Sula, Tencoa, Yoro, Olanchito and Olancho el Viejo. In spiritual matters, the Bishop of Honduras governed. It was divided into two partidos (districts); that of Comayagua situate between the Provinces of Chiquimula and Tegucigalpa, and the district of Tegucigalpa in which is comprised the town of *Jerez de la Choluteca.* Speaking of the Province of San Miguel, he states that it has the inlet of Conchagua, situate on the boundary line of the same province or partido (district) with Choluteca (page 29, vol. 1). He also states that *Copan*, a rich city and the court of the cacique (chief) Copan Calel has near by the ruins of the same name and is the Province of Honduras, partido (district) of Comayagua (page 43, vol. 1, edition of 1809). Referring to the same Copan he states, "This place which at present has only the title of Valle, is situate on the dividing line of the Provinces of Chiquimula and Comayagua, so

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that at times it has been in the jurisdiction of the former, and at times, *as now*, of the second." (Page 153, vol. 2, edition of 1818). Thus, according to Juarros, the dividing line between Guatemala and Honduras was in the *valley of Copan*, it only being necessary then to fix the exact point therein, which can be accomplished by means of the title deeds to lands and other documents presented, or that may be presented in evidence. Thus this Guatemalan historian and geographer does not permit that search for the dividing line shall go further, whether it be along the crest of the mountains or along the Ulua River.

The citations I have made, which will be reinforced by other documents, are sufficient to convince any one that Honduras possessed, on legal grounds, all the territory which it claims as its own, from 1524 to the date of independence. I shall not refer to the subsequent possession thereof, as it is a publicly known fact which Guatemala must acknowledge, at least from the line of Cerro Brujo down to the Motagua, thence following this to the sea.

V.

It has been my purpose to invoke only those documents which I believe had the most direct bearing on the case, from those obtained in the archives of Spain, and now let me add this: that all that evidence, although useful, was unnecessary, because the real cedula (royal rescript) of September 8, 1563, on which Guatemala bases its latest claim, is a document *of absolutely no value whatever.*

I have already stated how that royal rescript was tacitly abrogated by that of August 23, 1745, which ratified the boundaries of the Province of Honduras, to their junction with those of Yucatan, as they had been from the date of the agreement between the Adelantados Montejo and Alvarado, to which reference has been made (Exhibit VIII), and it was also abrogated by the real ordenanza de intendentes (royal ordinance of intendants), which declared that the limits of the Provinces were the same as those of their respective bishoprics, when said ordinance was extended to the Kingdom of Guatemala in 1786, because the bishopric of Honduras *comprised all* of the territory which said real cedula (royal rescript) was intended to segregate from it. But happily that royal cedula (royal rescript) *was expressly repealed* by the one issued at El Escorial on May 17, 1564, eight months after the date of the former. The following is a copy of the first two preceded by another which serves to explain them both:

Royal rescript (real cedula), 1563, the King: To the President and judges (oydores) of our royal audiencia which resides in the city of Mexico of the New Spain, know ye that we, considering it in the interest of our service have

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resolved to change our royal audiencia which resides in the city of Santiago of the Province of Guatemala to the city of Panama which is in the Province of Tierra Firme, and have ordered that our President and judges (oydores) of the said city of Guatemala shall thereupon pass to said city of Panama and have fixed to them for limits and district the city of Nombre de Dios and its lands and the city of Nata and its and the governancy of Veragua and along the sea of the south the upper coast towards Peru to the port of Buena Ventura, exclusive, and the lower coast (costa abaxo) towards Nicaragua to the Bay of Fonseca, exclusive, and inland all of the Province of Nicaragua and of Honduras up to the place of Xeres de la frontier, inclusive, and along the sea of the north to the Ula River, exclusive, so that there shall be drawn a line from the Bay of Fonseca to the Ula River and from this line towards Panama it shall be the district of the audiencia of Panama as well on land as along the coasts of the south and of the north, and from said line towards that New Spain *including the villa (town) of Gracias a Dios and Sant Gil de Buena Vista of the Province of Honduras* is to be the district of that said audiencia, as well inland as along the coasts of the sea of the south and of the north, and from Nombre de Dios along the coast towards Cartegena shall also belong to the district of said audiencia of Panama, exclusive of the Darien River and of said limits we have ordered our "provicion" (provision) in form to be given to said audiencia: Therefore, we do command you that from now on in addition to the limits which you have and have been fixed for you, you shall have for limits those declared in this rescript (cedula) that this audiencia shall have and that therein you shall exercise jurisdiction as in the others which you have and we, by these presents command the governors and justices (justicias) of the lands and towns which by this our rescript are marked as limits of that audiencia in addition to those it has and to the councils, justices, councilmen, knights (cavalleros), squires (escuderos), officials, and good men of all the cities, towns, and places thereof, and to each and any of them to whom this my rescript (cedula) should be shown or a copy (traslado) signed by a public scrivener or of which they should have knowledge in any manner whatever, and to each and any of them in their places and jurisdictions that all that which by that audiencia of Mexico should be commanded they shall obey, and that they shall execute and cause to be carried out and executed your orders (mandamientos) in all and by all as and in the manner that by the said audiencia should be commanded of them and that they shall render and cause to be rendered to you all the favor ("favor") and aid which you should ask and require of them without any excuse or delay whatever under the penalties which you should inflict and order to be inflicted on them which by these presents we do prescribe for them and deem inflicted on them, and do not you intrude to exercise any jurisdiction in the lands and Provinces and towns which are above declared and which we give as limits and district to the said city of Panama, and neither the ones nor the others do nor shall do ("endeal") in any manner. Dated in Caragoca on the eighth day of the month of September of the year one thousand five hundred and sixty-three. I, the King, by order of His Majesty, Franco de Erazo. Signed by the President, Don Juan Sarminento Vasquez—Don Gomez, Capata, Ilevana, Munoz. General Archives of the Indies, est. 100, caj. 1, leg. 9, folio 121, Sevilla.

Royal rescript (real cedula), 1563, Don Felipe: Whereas we have resolved to change the royal audiencia which resides in the city of Santiago of the Province Guatemala to the city of Panama, which is in the Province of Tierra Firme, and that Luis de Guzman, our governor of the said Province of Tierra Firme, shall pass to said Province of Guatemala, there to have the government of said

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Province, and because it is well and advisable that it be known what is the district and limits which said governancy of Guatemala shall have by these presents it is our grace and will to declare by this our letter, wherefore we do declare and command that the said governancy of Guatemala shall have as limits and district from the Bay of Fonseca, inclusive, and the Ula River, inclusive, with the villages of Sant Gil de Buena Vista and the town of Gracias a Dios and the Provinces of the Vera Paz and Chiapa, and we command all our governors and other justices and judges whatsoever of the Provinces, villages (pueblos), and lands above declared to whom this our letter should be shown or a copy (traslado) thereof signed by a public scrivener or should have knowledge thereof in any manner whatsoever and to each and any of them in their places and jurisdictions that in all that which they should be ordered by our governor of the said Province of Guatemala they shall obey him and render and cause to be rendered to him all the favor and aid which he should request or require of them, without any excuse or delay whatever under the penalties which he should inflict on them or order inflicted, which we, by these presents do prescribe for them, and we give him power and authority to execute the same on those who should be rebellious and disobedient and upon their goods, and neither the ones nor the others do nor cause to be done "endeal" in any manner, under penalty of our grace and one hundred thousand maravedis for our exchequer; given at Caragoca on the eighth day of the month of September, in the year one thousand five hundred and sixty-three. I, the King. Countersigned by the secretary, Franco de Erazo, the President Don Juan Sarmiento, the doctor Vasquez, the licentiate, Don Gomez Capata; the doctor, Franco Herrera Lienvana; the licentiate, Alonzo Munos. General archives of the Indies, Sevilla, est. 100, caj. 1, leg. 9, folio 131, reverse.

Royal rescript (real cedula), 1564, Don Felipe, etc.: Whereas we have resolved to change the royal audiencia which resides in the city of Santiago of the Province of Guatemala to the city of Panama, which is in the Province of Tierra Firme, and that Juan Busto de Villega, who is our governor of the said Province of Tierra Firme, shall pass to said Province of Guatemala, there to have the government of said Province, and because it is well and advisable *that the district and the limits which the said Government of Guatemala is to have* shall be known, by these presents it is our grace and will to declare it by this our letter: Therefore we do declare and command that *the said Governancy (Governacion) of Guatemala shall have for limits* and district from the Bay of Fonseca, inclusive, *to the Province of Honduras, exclusive*, by straight line (linea rata), and that for the part which borders with the Province of Honduras it shall remain according to the boundaries (terminos) which until now it has had, and the Province of La Verapaz and Chiapa, and we do command all our governors and other justices and judges whatsoever of the Provinces, towns, and lands above declared to whom this our letter should be shown or a copy (traslado) thereof signed by a public scrivener, or who shall have notice thereof in any manner whatever, and to each one and any of them in their places and jurisdictions that in all that which by our governor of the said Province of Guatemala they should be commanded they shall obey him and shall render him and cause to be rendered to him all favor and aid which he should ask or require of them without any excuse or delay whatever under the penalties which you should inflict or order to be inflicted which we by these presents do prescribe against them, and we give you power and authority to execute the same upon those who should be rebellious or disobedient and on their goods, *which we do command shall be kept and carried out notwithstand-*

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ing another provision of ours which we commanded to be given respecting (Cerca) the said limits (.) in the city of Caragoca on the eighth day of the month of September of the past year of one thousand five hundred and sixty-three, because it is our will that there shall not be kept and carried out but this which we now give, and neither the ones nor the others do nor shall you do ("endeal") in any manner under penalty of our grace and of one hundred thousand maravedis for our exchequer. Given in the escorial on the seventeenth of May of the year one thousand five hundred and sixty-four. I, the King. Countersigned by Erasso; issued by Dr. Vasquez Don Gomez, Licentiate Alonzo Munoz(general archives of the Indies, est. 100, caj. 1°, leg. 9, folio 169. The foregoing copies conform with their originals which exist in this archive general of the Indies under my charge in est. 100, caj. 1, leg. 9. (A seal reading "General archives of the Indies.")

These royal rescripts are self-explanatory and commented. There was in Guatemala a royal audiencia which had jurisdiction in all of the Kingdom of the same name. The King, for reasons stated by Juarros and which I shall copy further on, decided to remove said audiencia from that place and to divide the territory over which it had jurisdiction between the audiencia of Mexico (New Spain) and that of Panama, which latter he then created. In order that there might be a boundary line easy of perception, he fixed a line from the Gulf of Fonseca to the Ulua River and commanded that that portion of the territory which was to the right of that line should be in the jurisdiction of the audiencia of Panama and that the section lying to the left should be in the jurisdiction of New Spain, including the towns of *Gracias a Dios* and *San Gil de Buenavista*, of the Province of Honduras.

In this way the territory of Honduras would have been divided between the two audiencias. No doubt the King realized that this was irregular because, on the same date, he issued another royal rescript by which the territory of Honduras situate to the left—that is to say, to the west of said line—was added to the Governancy of Guatemala, but this was not done at all by the King as a reward for the *sacrifices* made by Guatemala for the benefit of that section of Honduran territory. On the contrary, he proposed to punish the misconduct and abuses committed by Guatemalan functionaries by removing all save one, fining them all, and removing the audiencia from its capital.

I must again elect to follow Juarros rather than the statement of the representative of Guatemala on this point. Juarros states as follows:

The King, our Lord, having been informed of the *intolerable excesses* of the President, Juan Nunez de Landecho, and of the other ministers of the audiencia of Guatemala, did, by rescript of May 30, 1563, appoint "visitador" (inquisitor) thereof, Licentiate Francisco Briceno. The story runs that this lawyer came very cautiously and in disguise without being recognized, and on arrival at the capital took lodgings at the Convent of Nuestra Senora de

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la Merced, stating his mission only to the prelate and continuing his secrecy with respect to all others, and used to overhear conversations and gossip; in this way he had ample field for informing himself of many things; and having become fully informed of the state of this Republic from what he had heard as well as from what he had seen, he left for the village of Petapa distant six leagues from the capital and from that place gave notice of his arrival to the royal audiencia and to the city. Of these two bodies, the former, under pretext that he was not coming as President thereof but as "visitador" declined to receive him in the customary manner or to send one of the oydores (judges) to conduct him hither. But the city authorities, doing more than they were obliged to do, left in a body for the said village of Petapa to receive their governor; and the latter, accompanied by the city authorities made his entry into the metropolis on February 12, 1565. The "visita" (inquisition) was opened and a few days later he imprisoned Señor Landecho in his house and shortly thereafter fined him 30,000 pesos. This President, whose conscience warned him that he would receive greater punishment making himself the executor of the deserved punishment, fled from the prison to the ports of the Sea of the North, and sailed in a small vessel which was in bad condition and a storm having arisen it is believed to be the fact that he was drowned. The oydores (judges) were *removed and fined* in accordance with their just deserts; only one was retained in office, namely, Licentiate Jofre de Loayza but even he, by order of His Majesty was fined, not because any offense was proved against him, but because he did not inform on his associates. Nor did the just vengeance of King Felipe II end here, as by rescript of September 17, 1563, he ordered the audiencia of Guatemala to be transferred to Panama, which was executed by the "visitador" Briceno in the year 1565. Thus the Kingdom of Guatemala became a simple Province of the audiencia of Mexico and had for its governor Licentiate Briceno.

But even so, the city and Province of Guatemala did not remain in this condition but for the short period of five years, because, through its solicitor at court, Regidor (Councillor) Francisco del Valle Marroquin, it instructed him to make known to His Majesty the great distance there was between these provinces and the City of Mexico, and the difficulties of carrying appeals there, and requested His Majesty to restore the royal audiencia to this metropolis. This petition of the city of Guatemala as stated by Presbyter Remesal, supported by the reports of I. S. D. F. Bartolome de las Casas, had the complete effect which was desired; because in rescript of June 28, 1568, our Lord Don Felipe II ordered that the royal audiencia should resume its residence in the city of Guatemala, and he named as president Dr. Antonio Gonzalez and as oydores (judges) Licentiates Jofre de Loayza, Valdez de Carcamo, Christoval Asqueta, and as fiscal (State's attorney) Licentiate Arteaga. On January 5, 1570, the new president and oydores entered this capital with the royal seal and were received with great evidence of rejoicings and contentment of the entire kingdom. His Majesty, by rescript of August 6, 1571, manifests the pleasures and satisfaction that he has had on hearing that the Royal Chancery of Guatemala had been reestablished with due solemnity, and he approves the oficios (communication) which it issued to the audiencias of Mexico and Panama in order that the latter should abstain from hearing those cases which belonged to their jurisdiction and to remit those pending for this district (pp. 48–50, vol. 2).

The transfer of the royal audiencia from Guatemala was carried out in 1565, but not so the segregation of Honduras territory. Probably upon complaint of the Governancy of Honduras the King recti-

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fied and expressly repealed the preceding royal rescript which related to the boundaries of the two Governancies, directing that the Province of Honduras should have the boundary which it formerly possessed and indirectly rectified also the dividing line of the territory of the two audiencias.

The punishment imposed on Guatemala or the effects of the vengeance of the King Felipe II, as Juarros states, lasted only five years, and the royal audiencia again had its seat in said city on January 5, 1570. Thereupon things remained as they had been prior to the issuance of said royal rescripts and Honduras continued with its boundaries, including the district of San Gil de Buenavista.

As may be seen, the great edifice erected by the learned Representative of Guatemala is devoid of foundation. I suppose he was not aware of the real cedula (royal rescript) last above described, because had he known of it he would have avoided the laborious task which he imposed upon himself; and now, I trust, that on having brought this to his attention, he will graciously withdraw the claim which he presented and thus facilitate the discussion of the case.

I desire this, furthermore, because I would not want the Honduran people to learn of it without at the same time learning of its withdrawal.

The Representation of Guatemala will acknowledge that the people of Honduras is no less patriotic than the Guatemalan, a fact which I have considered in the hypothetical case that Honduras had made a similar claim.

VI.

I do not want to omit an examination of the boundaries of Honduras on the side of the Pacific in relation with the provision of the aforesaid real cedula of 1564, even though it should not be the subject of the present discussion.

It is not strange that the King should have continued to include the Gulf of Fonseca within the Province of Guatemala because at that time and for a long time thereafter Guatemala extended to the Province of Nicaragua, and included the territory which now constitutes the Republic of El Salvador and a strip belonging to Honduras on the Gulf. It is thus shown in the maps up to the eighteenth century and, through error, in some others subsequently. This is confirmed by many ancient documents, among them the one entitled: "Demarcacion y Division de las Indias" (boundaries and division of the Indies), which I have cited and annexed hereto as Exhibit IV.

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Subsequently the Province of El Salvador was created, whereupon Guatemala ceased to border with Honduras on that side. Among the documents which I have cited and among others which might be gathered is the evidence that at the close of the eighteenth century the territory of the partido (district) of Choluteca (now Departments of Choluteca and Valle), which lies along the Gulf of Fonseca and its islands, were under the jurisdiction of the Province of Honduras, annexed to the alcaldia mayor of Tegucigalpa. In any event, upon the promulgation of the ordinances of intendants (Ordenanza de Intendentes), which gave to the Provinces the same territorial area as the bishoprics, said territory along the Gulf would have been included in that of Honduras as a part of its diocese. To prove this latter, I need only cite Juarros, who includes among the towns of the bishopric of Honduras those of Aramecina, Choluteca, Corpus, Goascoran, Langue, Linaca, San Martin (mining section), Orocuina, Nacaome, and Pespire, all of which belong to the partido (district) of Choluteca (pp. 105 to 128, vol. 1, of the above-cited work).

I have not been able to specify all of the dates because this conference has for its object to fix the frontier boundaries between Honduras and Guatemala, and in the territory which lines along the Gulf of Fonseca Honduras borders on El Salvador. I could not, therefore, be prepared on that subject. I have dwelt on this lightly only for the purpose of showing how that part of the territory of Honduras ceased to belong to Guatemala.

VII.

Thus all of the proofs which Honduras has to show that the boundary line with Guatemala commences at Cerro Brujo, which is their common boundary with El Salvador as stated in my memoranda, show at the same time that the line lately claimed by Guatemala has no foundation. And I hope that the representative of Guatemala in answering the claim of Honduras, if it is opposed, will base it on documents which directly contradict or nullify those presented by me in support of the claim of Honduras, principally the real cedula (royal rescript) of 1745, which fixed the boundaries of the Provinces; and that they shall not be of those referred to by the learned Toledo Herrarte in the first three paragraphs of No. 7, of his memorandum.

It is my purpose to demonstrate in the oral discussions, exhibiting at the same time the documents, that Honduras is right in its contention. For that purpose I am using as guide the plans made by the Honduran engineers who attended the frontier conferences, on which maps they have allocated the lands whose titles serve to support the contention of Honduras, allocating at the same time those

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which I have been able to obtain on the side of Guatemala. I shall also avail myself of the minutes of the meetings of said conferences, because the learning and competency of the lawyers and engineers who took part therein are deserving of my highest respect and I believe that they can throw much light on the question; and because all that thereof on which the parties were agreed, is law between the two countries, as such work was expressly declared valid under Article XVI of the convention of 1914.

VIII.

To facilitate the discussion, I propose the following plans: That the study of the boundary line be divided into three sections as was done by the Mixed Commission which labored in 1908 to 1910, or in four sections, according as the course of the discussion may warrant.

The first section would be from Cerro Brujo to Cerro Obscuro, recognized as common boundaries by said commission. Although there were some differences in respect to the line connecting the two points, this can be readily adjusted. Cerro Brujo as the starting point of the boundary can not be disputed: (1) Because it was so recognized by the Mixed Boundaries Commission at its third session on June 5, 1908, on the initiative of the representatives of Guatemala; (2) because that starting point was also recognized by the representative of the Republic of El Salvador as the common boundary point of the three countries in sessions fifth and sixth of said conference held in Salvadoran territory on the 9th and the 16th of July of the same year; (3) because the Government of El Salvador caused its representative to attend by virtue of an invitation from the Government of Honduras which was ratified by that of Guatemala by telegram of the 3d of the same month, in which is set forth the express authorization to Engineer Claudio Urrutia, here present, to fix upon Cerro Brujo as the common boundary point of the three countries; (4) and because this being a point on which the members of the Mixed Commission were agreed, the fixing of said Cerro Brujo as the starting point in marking out the boundary line was elevated to the rank of a treaty by virtue of the express recognition made by the said Governments, of the validity of the work of that commission.

For the reason last above mentioned in respect to the preceding boundary point, Cerro Obscuro is also an indisputable boundary point for the Mixed Commission recognized it as such.

The second section would be from Cerro Obscuro to the parallel of the ruins of Copan. I expect that we will arrive at an agreement on the precise boundaries which ancient titles fixed as the boundary of the two Provinces of Chiquimula (Guatemala) and

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Gracias a Dios (Honduras), and these being acknowledged as boundaries, an agreement can readily be arrived at respecting the line that is to connect them.

Near said parallel there is the boundary point "Portillo de Caulotes" or "Coyoles," which should not be disputed, because in addition to being confirmed by our ancient titles antedating the independence, there is one of special importance, which is that of "Tapesco de Avila y Leona," which was exhibited by the Guatemalan Commission at the conference of 1847, and I have a copy of it signed by the representatives of Guatemala and of Honduras on that occasion. I quote therefrom the following passage:

Measurement of the "Sitio" (farm) called Tapesco y Leona made in February, 1754. In this estate of Potrero de la Vega *on the line of the Province of Gracias a Dios*, bordering on the Province of Chiquimula de la Cierra, with a permit from the lieutenant of Valle del Copan on February 22, 1754. I, Vicente Ruiz Machorro, subdelegate judge of the real derecho de tierras (land taxes) of the border Provinces, under ample commissions for that purpose conferred upon me by his highness, Dr. Jacobo de Huerta y Cigala, of His Majesty's council, his oidor (judge) and alcalde de corte (privative judge) of the real derecho de tierras, collection of its proceeds and imposition of fines in this Kingdom, one belonging to the Provinces of Zacapa and Chiquimula de la Cierra, issued on the 16th of October of the past year of 1751, *and the other in which the commissions are amplified for the boundaries of the bordering Provinces* dated August 23, 1752, and both attested in Guatemala by Domingo Antonio de Oritz, secretario de camara-mayor of government and war in its district, do state (here follows the designation of the witnesses and linemen and the commencement of the measurements) * * * ; and changing the course and taking the east-northeast, having on the right hand side the lands of the Valley of Jupilingo, which belong to the Province of Chiquimula de la Cierra, *whose boundary I am treading upon, and at* the 9th cord we passed another landmark which is called of the sitio (farm) Los Coyoles, and continuing the measurement 3 cords further we arrived at the Portezuelo de los Coyoles, at which point Seargent Bernardo Pinto stopped, who was the expert that was guiding me, and showed me the title deed of his property, whose lands reached to said Portezuelo, upon which seeing which document I ordered a pile of rocks to be placed as a monument * * * (here follows the measurement), and in order to conduct said measurement Diego Ximines showed me the title to the lands he owns, named *Los Jutes*, whose measurement ran from the monuments, called *Las Cruces, on the line which divides* this Province of Gracias a Dios from that of Chiquimula along the whole highway, said lands of Ximines lying on the left hand, etc. The entire document is Exhibit IX.

According to this document the dividing line between the two Provinces continued to be determined by the commissioner appointed for the purpose and is confirmed for a great distance by other ancient titles.

Fixing the boundary on said parallel it would be simple to agree upon the line to descend to the Rio Motagua. This would be the third section in case it should not be extended to the sea.

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Having fixed upon the point of arrival at the Motagua, it would be advisable to consider for the fourth section the question whether the line claimed by Honduras to Belize should be followed or some other.

Once the legal boundary line is agreed upon, that line can be modified in the search of the nearest natural boundaries which shall establish a clear and stable line, subject to the rule of compensations provided for in Article VII of the convention above cited.

IX.

I have in my possession the documents and maps to which I have referred, either originals or certified copies and others which I will exhibit in due course and which I have not mentioned here in order not to make this reply too lengthy, and I reserve the right of exhibiting those which I may hereafter obtain or that may become necessary in the course of the discussion.

X.

In conclusion, I wish to make the following statement:

It is natural that the Governments of Guatemala and Honduras should desire the expansion of the territory of their respective countries, but in order to arrive at this desired result, it is not a good plan to advance the frontier line over the other's territory, in which course they would meet with the absolute opposition of the peoples. There is another and better one which is to carry out the work that patriotism calls for, and that is the reestablishment of the former great country of Central America, to obtain which, the unanimous and enthusiastic cooperation of the people of the isthmus can be counted upon and especially that of the people and Government of Honduras. It would be a great honor to the two Governments here represented if, upon the satisfactory termination of their dispute regarding boundaries, there should arise from this conference the basis for the aggrandizement of their country, thereby securing forever peace and progress in that land.

(Signed) P. BONILLA.

WASHINGTON, *June 22, 1918.*

HONDURAN EXHIBITS NOS. 1 TO 9, ACCOMPANYING MEMORANDUM DATED JUNE 22, 1918.

EXHIBIT ONE.

"And he, Pedro de Alvarado, returned to Guatemala at the end of April, 1536. He then went to Yucatan in order to settle his

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differences regarding *the boundaries between the two Governments in behalf of Honduras*, with the Adelantado Don Francisco Montejo, and having arrived at an agreement he made *search along the same coasts of Honduras for place suitable to establish a port of the Kingdom for that section*, and he decided upon Puerto de Caballes, which he ordered to be legally opened, and while he was there he received word that the oidor (judge) of the audiencia of Mexico, Alonso Maldonado, was going to conduct his residencia (an inquest into the acts, et cetera, of a public official upon his cessation from office) by virtue of a real cedula (royal rescript) of October 27, 1535."

(Justo Zaragoza, page 328, vol. 2, first edition of "Historia de Guatemala o Recordacion ——— Florida (History of Guatemala or Selected Recollections), written in the seventeenth century by Capt. Francisco Antonio de Fuentes y Guzman, native and resident and perpetual councillor of the city of Guatemala, etc.)

EXHIBIT TWO.

"In effect, the two adelantados (Alvarado and Montejo) entered into negotiations and after many difficulties and hesitation on the part of Montejo, an agreement was signed *by virtue of which he withdrew from the governancy of Honduras in favor of Don Pedro*, in consideration of the cession which the *latter* made to him of that of Chiapas, of the Encomienda of Suchimilco, in the New Spain, and the obligation which he assumed to pay 2,000 pesos which Montejo owed to some persons.

"This agreement of course was naturally subject to the approval of the King, which Alvarado requested in a petition setting forth the advisability of having the *governancy of Honduras united to that of Guatemala;* giving the assurance that that land would yield over 100,000 pesos of gold annually to the royal treasury, and that in the condition in which it then was it yielded nothing.

"Such is the account of the difference which arose between the two adelantados and of the agreement at which they arrived stated by the said Alvarado in a letter addressed to the Emperor from Gracias, August 14, 1539, an interesting document which our historians and chroniclers were not aware of.

"Montejo, on the other hand, did not neglect to address the King, which he did through two very long letters, both dated June first of the same year. He speaks of his differences with the Government of Guatemala in a very different manner from what appears in the account of his antagonist, and he complains about Don Pedro, whose expedition, he says, appeared to have been directed solely

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against himself. He accuses the bishop-elect of being partial and accuses him of criminal intrigue; and he states that having been assailed and yielding to force he was compelled to consent to relinquishing the *governancy of Honduras;* that the Province was perfectly well governed and tranquil until Alvarado arrived to stir it all up, and he begged the King not to approve the agreement as made and to punish the bishop for his infraction of law.

"These reports did not produce the effect which Montejo intended, those of Alvarado having been given greater credibility.

"The King approved the agreement and the *governancy of Honduras was for the time being united to that of Guatemala.*"

(Jose Milla, Guatemalan historian, pages 299–300, Vol. I, "History of Central America, etc." Guatemala, 1879.)

EXHIBIT THREE.

1. Letter of the Adelantado Don Pedro de Alvarado to Royal Council of the Indies on various points concerning his services and governancy of Guatemala:

NOVEMBER 20, 1536.

"VERY ILLUSTRIOUS AND MOST REVEREND SIRES AND MAGNIFICENT:

"The Empress our Lady ordered me by letter *that I should not intermeddle in anything pertaining to the land of Honduras* because she had granted that governancy to Diego Arbitel, and on the other hand the Adelantado Montejo comes to settle the *land of Cucumel; and in these governancies there is embraced all of the coast of the Sea of the North which border on this governancy* in such manner that I can not comply with your Majesty's commands *without entering upon the territory of these two governancies;* although I well know that neither of these two governancies has any possibility or manner of sailing said coast in search of a port nor settle it; but if Your Majesty should still be pleased and your lordships should deem it advisable that it be done and you should commit its execution to me, send me 'inviar,' the necessary orders (provisiones) to that effect and especially in order that I may take war Indians, natives of this governancy and Province for the conquest of that coast. I will search for a port and if I should find one so situated that it is proper for a settlement, and can sustain Spanish residents, I will settle a town, and by so doing, will perform one of the most useful things that has been done in these parts, because of the brief navigation that there is from the Spanish islands and Fernandina and other islands to this coast of the North and from the latter to that of the Sea of the South, where there has been discovered a very good safe and deep port at the mouth of the River Lempa, where a town has been established called San Miguel, where all of the vessels

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stopping there can be supplied or they can be docked for repairs or take on cargo; and in this manner, with little effort, the Sea of the North will communicate with the Sea of the South and it will be of great benefit if anything should be discovered along there.

"If, however, your Majesty should not be pleased to do so, or your lordships and highnesses should not deem it advisable to command that I should enter upon the territory of neither of these two Governancies to see if there is a safe harbor in the Sea of the North because, as I stated above, none of the other Governancies has any means of sailing the coast and searching for a harbor there, and inasmuch as in the coast of the Sea of the South, which belongs in part to this Governancy, there have been discovered ports and there are great materials therein from which to construct vessels with which, it pleasing God, there could be discovered thereby a very good thing, for whose conquest and settlement there must be taken from here the necessary aid and it is a very great expense and labor to bring the necessary things to this Governancy *from the Port of San Juan de Olua*, which is distant 13 leagues, and the town of Guascagualco, where there is a port in the north, is 40 leagues from this Governancy; I beg your lordships and highnesses to see that His Majesty makes me a grant of that port and town so that it shall be under my Governancy, because from there all necessary provision can be obtained for the Armada, which should sail from here destined to the Sea of the South; because great benefits are expected therefrom and it would result in a great benefit and advantage to all of this Governancy. . . .

"May our Lord keep your Illustrious and Most Reverend Person and Most Magnificant Persons and You, my Lords and Most Reverent Persons, in prosperity and health for a long time."

"Written at the city of Guatemala, November 20, 1536, your Highnesses', Lordships', and Reverent Highnesses' most attentive servant.

"(Signed) EL ADELANTADO PEDRO DE ALVARADO."

(Archivo de Indies—Torres de Mendoza-Coleccion de Documentos ineditos de Indias, Vol. XXIV, pp. 250–297.)

2. Letter to His Majesty from the Adelantado Don Pedro de Alvarado in regard to the expedition to the island of San Domingo and Gracias a Dios 1539:

"GRACIAS A DIOS, *August 4, 1539.*

"SACRA CESAREA CATHOLICA MAGESTAD:

"From *Sanlucar* at the time of my departure I wrote to your Majesty giving you a long account both of my vessels and of the people I was bringing in them and I also wrote to your Majesty from the island of San Domingo, making known to your Majesty my safe arrival there and as I had found there a vessel from this land of Honduras whereby I knew the state in which the land was and the losses therein, and until I ascertained the truth of all, I did not

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write to your Majesty regarding it, but only that Montejo said that he would let me land and other things which your Majesty will have seen from my letter. . . . After that letter had been written and the occurrence and of all that I have related above to your Majesty the Adelantado Montejo and I entered into an agreement as follows:

"That I should leave him the royal city of Chiapa, which is in the Governancy of Guatemala; and in that of Mexico, the town of Suchimilko with all of its lands; and besides, I give him 2,000 castellanos and he gives me the right which he has to this Governancy, to the Higueras and Honduras; *in order that your Majesty might make me a grant thereof*, together with that of Guatemala; and because it is a matter of so much importance to the Governancy of Guatemala both because it is *in the middle thereof* as by the port of Cavallos which is nearest thereto that there is, and also in order the better to serve your Majesty because if I did not take it it would be lost, I came to make the agreement as I have stated above to your Majesty.

"I beg your Majesty that inasmuch as I *already have the Governancy and I direct both the one and the other, and because it cost me my towns and money* and in addition thereto I did it under a provision (order) of your Majesty which I brought that I could exchange, as your Excellency knows, because the one without the other amounts to nothing, nor could your Majesty be otherwise well served. (Sic.)

"Upon arrival at the city of Santiago de Guatemala I have sent a personal message to your Majesty, giving an account of all that has happened up to that time and of all other things that your Majesty should desire to know regarding this land you will be informed by the bishop of this land, who is going there to give an account to your Majesty of all that there is therein.

"May our Lord keep and prolong the life of your gracious Highness to the great benefit of the Kingdoms."

"From this city of Gracias a Dios on August 4, 1539. Your Majesty's humble vassal who kisses your royal feet and hands.

"THE ADELANTADO ALVARADO."

(Archivo de Indias, Coleccion de Documentos Ineditos de Indias por Torres de Mendoza, Volume XXIV, pages 311 to 319.)

EXHIBIT FOUR.

Demarcation and division of the Indies:

Honduras. The Province and Government of Honduras must be over 150 leagues in length from east (to) west along the coast of the Sea of the North and in width from the sea to the boundaries of Costa Rica and Guatemala, in part 70 or 80. It is all covered with

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mountain ridges, but fertile in maize and wheat and every kind of cattle and some gold and silver mines; it contains six towns of Spaniards in one bishopric which are as follows: Vallid, known in the Indian language as *Comayagua*, 70 leagues distant from Santiago of Guatemala to the east and about 40 from the Sea of the North; has 100 Spanish residents; the governor and the cathedral reside there since the year '58, at which time it was transferred from Trujillo, where it was originally located; and the novitiate of La Merced; and in this territory 56 Indian villages and therein 2,600 taxpayers.

The city of Gracias a Dios, 30 leagues from Vallid, almost due west, of 50 inhabitants, 36 commissionaires (encomenderos), the monastery of La Merced; in this territory there are 60 Indian villages and therein 3,000 taxpayers.

The town of Sant Pedro, 30 leagues from Comayagua, to the north and somewhat west, and 11 from the port of Caballos; contains 50 Spanish inhabitants; there the royal officials of this Province reside, because the port of Caballos is sickly where the vessels are dispatched, and there are in this territory 30 Indian villages which contain 700 taxpayers.

The town of *San Juan of the port of Caballos*, 15 degrees elevation, 11 leagues from Sant Pedro, 4 from Comayagua, contains 20 houses of factors, merchants, and negroes and no more, because it is a sickly port, which, although the harbor is good, * * *

The coast of this Province along the Sea of the North, because it does not extend to that of the South, is all in the gulf named Honduras, which is all of the sea that lies between this Province and Yucatan, where they are joined by the Province of Verapas. Where it is called the Guanaxos the first point is that of Higueras, with an altitude of 16 degrees adjoining the Golfo Dulce port for Guatemala, *where it seems was the town of San Gil de Buenavista*, or next to the cape of three points, to the east of Golfo Dulce and also farther east the Piche River and the Baxo River and that of *Ulua*, those named Balahama, formerly of the port of Caballos which is 15 degrees; and thereafter the river and point of Sal and Triumpho de la Cruz, the cape of three points, and the Hulma or Xagua River, and to the north its mouth, Utila. * * *

(Biblioteca Nacional, Madrid, Codice J, 15 Torres de Mendoza. Coleccion de documentos Ineditos de Indias, vol. 15, page 409.)

EXHIBIT FIVE.

1608. Letter to His Majesty from governor of Honduras, Juan de Guerra de Ayala, wherein he gives an account of his visit in his Province:

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"SIRE:

"When I left the Canary Islands, which was towards the end of July of the past year of 1607, I advised Your Majesty of the causes which detained me there * * * and this amounted to so much that the fleet of nine large vessels of Count Maurice guarded them and made them leave there, which were the ones which came to *this coast of Honduras at the port of Amatique, which they now call Santo Tomas de Castilla* * * * for it will not have benefited at all the Province of Guatemala already totally destroyed until the road is opened so that merchandise shall go to Guatemala without touching at the gulf and they can carry them. There are reasons for and against closing the port of Cavallos and depriving the residents of this governancy of their commerce in carrying their fruits because they can not load them at Santo Tomas de Castilla and discharge the merchandise which comes from Spain for they can not go from Santo Tomas de Castillo to this governancy because there is no road nor is it possible and it would give rise to the loss of this Province at any moment as though those did not belong to Your Majesty the same as Guatamala belongs and only Your Majesty should propose to benefit some and destroy others and not to improve them all, which is your royal intention, the more so because it would be of no detriment to Santo Tomas de Castillo to continue the trading at Puerto Cavallos with the fruits of this land and merchandise which comes to it and that there will not remain to this governancy any other port whereby it can be supplied and provided for *and even over the port of Santo Tomas de Castilla you have taken away the jurisdiction from the governors* which belongs to this Government and the royal officials in this Province exercise their functions here and the bishop appoints priests and vicars and has named as alcalde mayor one Juan de Monesterio, owner of a vessel which sails the sea and has left a lieutenant on land notwithstanding that Your Majesty has given me title to the discovered land by virtue of such discovery and although this is for my benefit because it is not a section which I can aid. I state this to Your Majesty in order that you may see that things are being done here absolutely without regard to appointments and rescripts which Your Majesty issues and that no one dares to speak of * * *. For not having written to Your Majesty about these parts, where there are so many things of which you should be advised, which I cut short in order not to tire Your Majesty. May our Lord keep Your Majesty and increase your dominions is the wish of your humble servant.

"City of Comayagua, Dec. 30, 1608." "JUAN GUERRA DE AYALA" (his rubric). (General Archives of the Indies, Seville, estante 63, cajon 6, legajo 39.)

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EXHIBIT SIX.

Description which is found in this Kingdom of Guatemala of the coast from the north, which chapter is as follows:

"Chapter 12. * * * The Gulf of Honduras makes a narrow entrance which continues inland until it forms a lake where on the west there is a fort called Santo Tomas which defends the harbor and the vessels on the road from Sacapa to go to Guatemala. * * * The registered vessels that go to Honduras remain outside of the gulf in an open roadstead. * * * From this gulf to Triumpho de la Cruz, which is at 16 degrees 4 mins. latitude, 284 degrees 35 mins. longitude, there are thirty leagues along the coast to the east. In between lies the cape of three points: Point of Nanibique, Macurises River (Motagua), the port of Omo, the port of Caballos, the Ulua River, the port of Sal, and the Bay of Triumpho. Inside the cape of three points and at the cove which it makes to the south-southeast which they call Santo Tomas de Castilla is where the registered vessels anchor. The Macurises (Motagua) River is large, copious and navigable to vessels. * * * The Bay of Truxillo is large and clean and only serves foreigners for an anchorage in carrying on their illicit trade both here as well as in Port Caballos, the inhabitants of this Province going down secretly to go aboard.

"*From the gulf to this bay it belongs to the Government of Honduras, in whose capital, which is the city of Comayagua*, resides the captain general of this Province and the bishop. It is a moderate city, well situate, and the climate * * *.

"The foregoing is a literal transcript of the manuscript which I had before me and which is bound in Vol. II of the collection entitled "Noticias hidrograficas de la America Meridional, d 2a" (Hydrographic Notes of Meridional America), which is on file in the Division of Hydrography. In witness whereof I sign the present copy at Madrid on March 6th, 1907."

The foregoing document is undated and the signature of its author does not appear, but in the Congressional Library at Washington, D. C., it is to be found dated 1728 and the name of its author, Pedro Rivera Marques, who wrote it under the title "Continente Americano, Argonauta de las costas de Nueva España, etc." (American Continent, Argonauta of the coasts of New Spain, etc.)

EXHIBIT SEVEN.

Rescripts to the President of the royal audiencia of Guatemala, January 14, 1770:

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"The King.

"To the Governor and Captain General of the Provinces of Guatemala and President of my Royal Audiencia thereof who resides in the city of Santiago:

"In your letter of Nov. 1st, 1768, you gave an account with the evidence of the results of the trip which you made to Omoa and the inspection of the work at that port and that you found that the supplies were scarce and of poor quality which has been one of the principal causes of the horrors which occurred at that place * * * that you had not left the vicinity thereof when the good effects of these provisions commenced to be felt, in the effective dispositions which were taken by the natives thereof for importing produce and merchandise at Omoa, and having disposed of the fear which formerly held them back injuriously, and the delays occasioned by the lack of money the greater part of the year and the extortions resulting therefrom in the sale of goods, and nearly all the burden of aid and provisions which Omoa needed from the time of its establishment falling upon *the two Provinces of Comayagua and Tegucigalpa which compose the bishopric of Honduras* because in this the militia have done the labor on said works and when there were no slaves of mine and said country was so pestilential that but few did not die and none escaped illness and the militia continued there and the officials and mechanics only because it is the nearest, and principally of the partidos (districts) *of San Pedro Sula, Gracias a Dios, and Tencoa of the governancy of Comayagua* have been employed in the carriage of my cargoes if they go on land, or they are transported from said place by convicts * * * for which reason you directed on July 22nd of the aforesaid year that a farm or *estate named Cuyamel situate five leagues from said port* which belonged to Commandante Joseph de Palma but which now belongs to me should be populated for my account, it being a place suitable for raising cattle and that at small expense this port should be supplied with such valuable food * * * and that in all that considerable and painful distance (he refers to that between San Pedro Sula and Omoa) there are no farms nor any village other than one named Candelaria, composed of 17 huts including those of the widows, for which reason the municipal taxes of that locality make excessive charges to the Indians in consideration of which and the favor and attention which the traffickers are entitled to and especially those who enter and leave Omoa and the representation which the natives themselves made to you, you are obliged to provide that twenty five families from the *partidos* (*districts*) *of Tencoa and Gracias a Dios which are the nearest to San Pedro* should remove to that place * * * that in the course of your trip going and coming you not only devoted yourself to leaving in

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good condition the original roads of traffic of that kingdom leading from port Omoa and its vicinity but also that you made and you left the project and instructions to the *corregidor* (*mayor*) *of Chiquimula and colonel of Gracias a Dios* for the opening of a road which could save four journadas (one day's march) and a mountain called Merendon sufficiently terrible to travelers, and there being a great scarcity of tobacco you made a journey through the valley and difficult mountain of Copan because these deserve the first consideration in Guatemala and provide the greatest profit to my Royal Exchequer, and in the course of your journey assembling the principal planters you left them in a splendid disposition to reestablish and increase their plantings * * * and the foregoing having been considered in my Council of the Indies together with the report thereon made by the Contaduria General (Auditor General's office) and the report of my fiscal (Attorney General) and having advised thereon on November 13th of last year, I have resolved to approve your action in having exempted from the customary payment of alcabala (excise tax) and barlovente (another tax) all of the provisions and other effects which should be imported through the port of Omoa * * * and with respect to the proposed new settlement which for account of my Royal Treasury you ordered in that estancia (farm) or estate named Cuyamel, the project is not stated in sufficient form to approve of it * * *."

Dated at El Pardo, June 14, 1770. "I, THE KING."

(General Archives of the Indies, Seville, estante 100, cajon 2, legajo 9.)

EXHIBIT EIGHT.

[Translation.]

(General Archives of the Indies. Sevilla. Office of the Secretary of New Spain. Secular. Audiencia of Guatemala. Dossier in re Excesses of Alonso Fernandez de Heredia, Governor of Nicaragua. Years 1748–1754. Est. 66, caj. 6, leg. 13.)

Commission of Colonel Juan de Vera.

DON PHELIPE, by the grace of God, King of Castilla de Leon, of Aragon, of the two Sicilys, of Jerusalem, of Navarre, of Granada, of Toledo, of Valencia, of Galicia, of Mayorca, of Sevilla, of Sardinia, of Cordova, of Corsica, of Murcia, of Jaen, of the Algarves of Algiers, of Gibraltar, of the Canary Islands of the East Indies, and West Islands and tierra firme of the Mar Occeano, Archduke of Austria, Duke of Burgundy, Brabant and Milan, Count of Augsburg, of Flanders, Tyrol and Barcelona, Lord of Biscay and of Molina, etc. Whereas it is in the interest of my service, and because of the present war, advisable to appoint some one to fill the offices

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of governor and commandant general of the Province of Honduras who shall possess the qualifications of military merit and discipline and proved conduct, and I being fully satisfied that you, Juan de Vera, colonel of infantry, do possess such qualifications, as you have accredited in the services which you have performed in various offices from the year 1714 in the regiment of my Spanish Infantry Guards, to which you were assigned with all the powers which you had up to 1722, at which time you then being second lieutenant thereof, I did confer upon you the rank of lieutenant colonel and the government of the island of Margarita, in which and in that of the Province of Santa Marta which office you served thereafter, you have established your disinterestedness, zeal, and good conduct as has been shown by the investigations (residencias) made and as has been brought to my attention by Sebastian de Eslavo, Viceroy of the New Kingdom of Granada: Therefore I have decided to elect and appoint you, as I do by these presents elect and appoint you, as *governor and commandant general of the Province of Honduras*, in order that you shall hold this office for such time as may please my will, with the same powers, jurisdiction, and authority as the other governors of that Province who have served therein, in conformity with the provisions of my laws, cedulas (rescripts) and orders, and considering it very useful to my service that you should be vested with the necessary authority for all that may be required, I have likewise decided to appoint you, as I do by these presents appoint you, *commandant general of my arms of the said Province of Honduras and of those comprised in all of the bishopric of Comayagua of the partido and district of the alcaldia mayor of Tegucigalpa, and of all the territories and coasts comprised from the termination of the jurisdiction of the governor, and captain general of the Province of Yucatan to the Cape Gracias a Dios*, and in like manner I appoint you commandant general in all of the aforesaid Provinces and territories, for all matters relating to guarding against and preventing unlawful commerce in them, for which I grant you all the power, jurisdiction necessary, so that in all the said Provinces and territories you may call, summon, and gather war people, command them and appoint corporals and military officers, inspect and repair fortresses, erect new ones as may be necessary for the security of said coasts, hear military causes in accordance with the regulations, and do all that you may deem necessary for the defense of said dominions and to prevent and punish therein unlawful commerce. Therefore, I do command the governor and commandant general who is or might be of the said Province of Honduras, the cabildo (city corporation) justice and regiment of the city of Comayagua, and other judges and justices whatever therein, that upon being required by you under this my royal commission, after you have taken the oath of office which

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you should take before said governor or cabildo of the city of Comayabua, *they shall deliver to you and put you in possession of the government and commandancy general of that Province*, and I do in like manner command the alcalde mayor of the real de minas of Thegucigalpa, and all the maestros de campos, sergeant majors, captains, lieutenants, ensigns and soldiers, and the alcaldes (mayors), commandants of fortresses and forts in said *Provinces and territories*, to have you as such commandant general of my arms therein and to obey and execute, without quibble or contradiction whatever, all orders which you might give them in writing or orally, observing toward you all of your privileges, honors, preeminence, exemptions, and prerogatives to which as such commandant general of my arms (you are entitled), and for all which purposes that may be necessary to avoid unlawful commerce you shall be entitled to and should be observed, and I declare you exempt in the military, and in all that may concern the watching and preventing of unlawful commerce of any other jurisdiction for which purpose I repeal any laws, cedulas (rescripts) or orders to the contrary, leaving them, however, otherwise in force, and effect, but I admonish you that in all pertaining to civil causes, criminal or governmental of the Province of Honduras and city of Comayagua, you are to make no changes, for these are to continue as heretofore, granting appeals from your judgments and from those rendered by your lieutenants to the said audiencia of Guatemala. And I do likewise command you not to mix in the *political and civil government of the alcaldia of Thegucigalpa nor of any other governancy that may reach to the said coast which may have its governor, or alcalde mayor, because that is to remain absolutely as it has been in the alcalde mayor or governor. Likewise I admonish you not to make, nor shall you make, any change whatever in the administration of my Royal Treasury*, abiding in such matters by the provisions of the laws; and I declare that with this office you shall receive a salary of six thousand pesos a year including therein that which until now your predecessors have received and which may be assigned to said Government, the same to be paid to you by virtue of this my royal commission and your receipts and acquittances for such payments by the officials of my Royal Exchequer of the Treasury of the city of Comaiagua, the salary to commence to run from the date that you shall prove to have arrived at the port of Havana; and I do likewise declare that you are not to pay any maravedis for the derecho de la media annatta (tax) because I have exempted you therefrom, and due note shall be taken of this commission by said officials of my Royal Exchequer of the Treasury of the city of Comayagua, with the understanding that if I should deem it advisable, I will in due course direct my Council of the Indies that they issue

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you the cedula (rescript), instructions or orders which through said department should be communicated to you.

Given at San Yldefonso, August 23rd, 1745, I THE KING.

Lord of Somo de Villa-Juan de Vera.

This copy agrees with the original in existence in the General Archives of the Indies, est. 66, caj. 6, leg. 13. Sevilla, July 26th, 1910.

(SEAL.) (Signed) PEDRO TORRES LANZAS,
Chief of Archives. (Rubric.)

The undersigned, consul of the Republic of Honduras, certify: That the preceding seal, signature, and rubric of Pedro Torres Lanzas, chief of the general archives of the Indies, Sevilla, are authentic.

Madrid, August 1st, 1910.

ANTO. GRAIÑO, *Consul.* (Rubric.)

(A seal which reads: "Consulado de la República de Honduras, Madrid.")

The undersigned, Secretary of State in the Department for Foreign Relations, certify: That the preceding signature of the consul of Honduras in Madrid, which reads Antonio Graiño, is authentic.

Tegucigalpa, February 10th, 1916.

MARIANO VASQUEZ. (Rubric.)

(Seal which reads: "Department for Foreign Relations, Republic of Honduras.")

Receipt for fees of certified copy entitled "Commission of the Governor of Honduras, Juan de Vera," issued at the request of Antonio Graiño.

Sevilla, July 26th, 1910.

P. TORRES, *Chief of Archives.* (Rubric.)

(Seal which reads: "Consulado de la Republica de Honduras, Madrid.")

(Seal which reads: "General Archive of the Indies.")

EXHIBIT NINE.

Measurement of the "sitio" (farm) called Tapesco y Leona made in February, 1754. * * * In this estate of Potrero de la Vega *on the line of the Province of Gracias á Dios* bordering on the Province of Chiquimula de la Cierra, with a permit from the lieutenant of valle del Copan on February 22, 1754. I, Vincente Ruiz Machorro,

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sub-delegate judge of the real derecho de tierras (land taxes) of the border provinces, under ample commissions for that purpose conferred upon me by His Highness, Dr. Jacobo de Huerta y Cigala of His Majesty's Council, his oidor (judge) and alcalde de corte, privative judge of the real derecho de tierras, collection of its proceeds and imposition of fines in this Kingdom, one belonging to the the Provinces of Zacapa and Chiquimula de la Cierra, issued on the 16th October of the past year of 1751 *and the other in which the commissions are amplified for the boundaries of the bordering provinces* dated August 23, 1752 and both attested in Guatemala by Domingo Antonio de Ortiz, Secretario de Cámara Mayor of Government and War in its district, do state that for the purpose of measuring these lands which are intended to be measured I arrived in company of the witness hereto, Jose Guerra, brother of the third order, and Bernardo Pinto, experts appointed, surveyor and linesmen who are Jacinto Lobato, mulato freeman, Jacinto Banega, Spaniard, and Lorenzo Gutierres, Indian, of the village of Jacotan. And also accompanied by Feliciano Davila y Lugo, who are to make said measurements, Felipe Lopez and many others who also accompanies me for the same purpose; and all of us having arrived together on these royal public lands which are named Tapesco de Avilla and which as an act of devotion are now called Santa Barbara by said Feliciano, and below a rock called Ochiefa there is a hillock of moderate height at the edge of the large river Copan, all rocky, and on the other bank of the river there is in front a mass of rocks of red wall, and on said hillock I ordered a pile of rocks to be placed, which was the first landmark of this measurement, and I ordered the measurer to pull out his line which he had brought for that purpose and which was 50 varas castellanas in length, each vara of three thirds, I with the abujon in hand and the experts with the linesmen took an easterly course and continued the line upwards along the crest of a large hill which is covered with pine trees, having on the left hand a moderate stream which rises half way up the side of this hill and descends to the said large river, and on the right hand I had the lands of Sergeant Icidro Guerra and of Felix Guerra, to whom I have made two formal and proper citations; one at his (their) house and the other at the village of Jocotan which is where I am told they are to be found, and notwithstanding these two citations he did not come to the boundary of his property with the title deeds; and continuing the measurement for thirty cuerdas, we saw below us the village and houses of said Guerras and at 39 we went down a portezuelo which is regularly called ojo de agua of xicara where there is a pile of rocks which meant that it was an old landmark, which I directed be renovated, and changing the course and taking the east-northeast having on the right hand side the lands of

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the Valley of Jupilingo which belong to the *Province of Chiquimula de la Cierra whose boundary I am treading upon* and at the 9th cord we passed another landmark which is called of the sitio (farm) Los Coyoles, and continuing the measurement 3 cords further we arrived at the Portezeulo de los Coyoles, at which point Sergeant Bernardo Pinto stopped, who was the expert that was guiding me, and showed me the title deed of his property whose lands reached to said portezuelo, upon seeing which document I ordered a pile of rocks to be placed as a monument, which having been done we changed the course and took a north-northeast course along the same boundary and on the same lines and boundary of the said Pinto, which lay to our right; and going down over said portozuelo we reached a very heavy stream and having crossed the same we went up in search of a piece of white land where cattle get their salt, which in the title deed of said Pinto is called Comedero Blanco, which is on the summit of a hill, and continuing the measurement we went down following the same course over the crest of the said hill which is long until we arrived at its end in sight of said great (sic.) and reached the landmark where the measurement of said (land) of Pinto was ended, as is shown in his title deeds, which landmark I directed to be renewed as it served both pieces of land, that is to say, those which are being and those already measured, and we arrived at this point having measured and counted 41 cuerdos and we did not continue to circumvalate this piece of land because it is impossible to run the line along the borders of said river and because the latter was the boundary and dividing line and because the lands which remain to be measured are on the other side of the river facing these without intervention or prejudice to the parties; and having finished the aforesaid measurement, I returned with those who accompanied me to the town of this farm having made citations for the remaining measurements. And at dawn on the 23rd inst. I left again with the same company in accordance with the previous day's work and we all walked together and took the title deeds of Miguel Pinto de Amberes, owner of the San Nicolas, and the title deed of Juan Leonardo Saavedra, lieutenant of this valley, who on account of his absence in the town of Chiquimula and on account of the illness of Miguel Pinto, his father-in-law, they both appointed as their representative Bernardo Pinto, the experts named in these proceedings, who accepted said designation as I have stated above, and then we walked along the road which goes from the village of San Juan Camotan to the point of the Xicaros where I had already, cited the Indian community of said village, and having arrived at said point, I found there the mayor, councilmen and principal scrivener and others of that community who showed me the title deeds of that village and therein I found that they had title to 171 cavallerias.

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and although on account of my knowledge of these lands and the long distance between these points, I recognized that said Indians were occupying at least 500 cavallerias of land, for the present I did not attempt to ascertain more than this, it not being actually measured, and thus with the pleasure and rejoicing of said community, we surveyed from the hill a landmark where the measurement was begun of the lands of Tapesco de Avila now newly called Santa Barbara from the red rock which is in front of said landmark on this side of the river, was fixed as a boundary point for this measurement, and because of the hazardousness and impossibility of transit of measuring by cords, this was made by sight over the hillock, which is a boundary line of las Flores to this point of the Xicaros, 34 cords along the line and in a north-northeasterly course and along the edge of the road that passes to the other side, and the Indian community of Camotan, by my orders, placed a great pile of rocks, which having been done they retired without any contradiction to their village; and in order to continue said measurement Diego Ximenes showed me the title deed to the lands which he owns called los Jutes, whose measurement runs over the *landmarks called las Cruces line which divides this Province of Gracias á Dios from that of Chiquimula along the entire highway*, said lands of Ximenes lying on the left hand and on said monument on the plain Xicoro, I directed the measurer to lay the line and putting the abujon in my hands before the lineman and taking an easterly course we measured along said highway and at the 9th cord the measurers left the road or deshecho which we are now seeking on the right hand the old highway from which they left the new one a matter of about a cord and in others about a cord and a half; at the 15th cord measured it joined again the main road and then became one and at the 21st cord we met the landmark which is under a pine tree in a small plain in front of the stream Caparja whose landmark bearing the same name is cited in the title deed of said Ximenes which I ordered to be renovated in order that it might serve also for these lands which I am measuring, to the junction and to the Salto, which is owned by Pascual Madrid, who had a controversy with said Ximenes regarding the limits and boundaries between said points, and which I cleared up and settled, it being just with Madrid's claim and unjust with Ximenes' claim, but in view of the recitals in their title deeds, courses and landmarks, accepted this settlement and when this was completed said Ximenes returned to his town and Madrid showed me his title deeds, whose lands were touched and they are named Salto and according to the recitals in said deed, we changed our course and took a southeasterly course, and because it could not be measured by cords, because of the impossibility of passing over a hill which would have to be passed in said course, therefore, I took

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the measuresments by sight, fourteen cords to the top of said hill, which having been done, we with great difficulty, crossed said stream of Caparja and ascended in order to measure the landmark which is at the summit of said hill in front of the ojo de agua del Carrizal, which belongs to the lands of Salto, which landmark I directed to be renovated, and then changed our course and taking the east-southeast we continued the line, having on our left the lands of Salto, and on the right which are being measured there was a large stream which is at the foot of a large hill, and we arrived at a portozuelo of two small hills, one larger than the other, of rocks and precipices which was well known and we counted twenty cords, and in the same portozuelo to one side of the trail on the left hand I ordered a pile of rocks to be placed as a landmark; and changed our course, taking to the south-southeast, and crossed the said stream and having passed the lands of Salto, etc.

NOTE. It was not deemed advisable to continue copying this measurement, because the rest of it would not be pertinent; wherefore there was returned to Gregorio Lugo, a resident of Copan, the title deed from which the above extract is copied, and it being noted that the value of the 17 cavallerias of which it is composed was paid in Guatemala on March 30th, 1759, it being stated in the certificate of payment that the farms named Tapesco de Avila y Leona lie on the boundary line of the Province of Gracias á Dios in the confines of said Province. In order that this data may be taken into consideration, the undersigned Commissions ordered that a copy be made and that it be added to the record in the case at Jupilingo on October 21, 1847.

At the request of the commissioners of Honduras we signed this copy at Esquipulas on October 25, 1847.

(Signed) JUAN JOSÉ FLORES,
JOSE MARIA CERVANTES.

REPLY OF THE GUATEMALAN DELEGATION OF JUNE 25, 1918, TO THE MEMORANDA OF THE HONDURAN DELEGATION, DATED MAY 24 AND 30.

We have the honor to answer the memorandum of the Honduran delegation dated the 24th of May ultimo and their amplification of the 30th of the same month. This task becomes so much easier for me and the other persons who compose the Guatemalan delegation inasmuch as, because of it, we shall be able to show the right of our country as well as the lack of foundations for the claims of the other high party in this litigation.

My colleagues in the Guatemalan mission and I have given to the perusal of the said documents all the attention which they, in our

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estimation, deserve, and have looked upon them with all the interest which the knowledge of opposing contentions to ours is likely to evoke.

A thoughtful study of these documents has brought us to conclusions, which we shall begin by setting forth as a general theme of refutation.

These conclusions are as follows:

1. That the historical account made by the Honduran delegation in its memorandum of the boundary question between Guatemala and Honduras contains several inaccurate appreciations which we shall hereinafter refute, one by one;

2. That the line which the said delegation claims as the boundary between the two countries is defined by it as follows: From "Cerro Brujo" to "Cerro Obscuro" and from the latter to "Cumbre del Guayabo;" from this point to the confluence of the Motagua and Managua, and thence to the boundary line of Belice; and,

3. That the foundations upon which the said delegation bases this claim are the treaties of 1895 and 1914, and, in conformity with them, the work done by the Joint Commissions; titles deeds to lands, and the colonial law.

Having thus summarized the memorandum of the Honduran delegation, we shall answer the arguments contained in the said documents, taking each section in the order in which it is presented. This procedure shall bring two purposes into harmony, to wit, to refute the arguments set forth in detail, and strengthen the principles and foundations upon which the rights of Guatemala are based, by bringing them into juxtaposition with the counterclaims.

HISTORICAL ACCOUNT OF THE BOUNDARY QUESTION, ACCORDING TO THE HONDURAN MEMORANDUM.

INACCURATE ASSERTIONS, NEGOTIATIONS OF 1847, ECCLESIASTICAL JURISDICTIONS.

I. ASSERTION THAT THE BOUNDARY QUESTION WAS UNKNOWN DURING COLONIAL TIMES.

The high party on the opposite side begins in its memorandum of May 24th by sustaining this assertion. For us it is a source of regret at the start to be unable to agree to any such assertion, and to state that the boundary question did exist during the Spanish domination, as we have amply shown in our memorandum of May 24th. And it did not only exist, but the difficulties created by it between the authorities and the inhabitants of those territories were settled by the royal decree issued at Zaragoza on September 8, 1563; by this decree was established a clear and complete boundary line between the

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Provinces of Guatemala and Honduras, which, in spite of the precision of its terms, and owing to the claims of Honduras, left the contention standing until the present time. It is already seen, therefore, that the honorable Honduran delegation is not in the right and that the boundary difficulties had their origin during the colonial times.

We have allowed ourselves to insist upon this point, because of its importance, owing to the fact that it must mark the orientation of and fix an invariable basis for the study and settlement of the question, inasmuch as the existing treaties fix the uti possidetis juris of 1821. For the consideration of this we must necessarily study only the colonial law and such facts as occurred previously to the independence, because those occurring afterwards can not have modified the law which was then already established, nor given rise to rights which were not at that time in existence.

II. ASSERTION THAT, ACCORDING TO OLD DOCUMENTS, THE AUTHORITIES AND EVEN THE INHABITANTS WERE WELL ACQUAINTED WITH THE BOUNDARY LINE, AND THIS WAS NOT DOUBTED AT ALL.

Indeed, the decree signed by the King of Zaragoza on September 8, 1563, fixed with entire clearness and precision the boundary line between Guatemala and Honduras. This line, which is the one established by law, was well known and is stated in a public document of the greatest importance and legal force. The line of de facto possession, which was later and gradually established, was not well known, nor demarcated, because at several points it was inadvertently developed on places unknown, unpeopled, and very distant; and it is just because the intention has been to substitute this de facto line for the legal line, which is the one recognized by the treaties in force, that the difficulties which we are trying to settle here have come about.

III. ASSERTION THAT DURING THE TIME OF THE ANNEXATION OF CENTRAL AMERICA TO MEXICO NOTHING IMPORTANT IN RESPECT TO BOUNDARIES WAS EVER RECORDED.

This is not so; immediately after incorporation to the Empire, there arose a number of difficulties of jurisdiction among the Provinces, which difficulties brought about the law on territorial division passed on November 4, 1822, determining the territorial jurisdiction (comprensiones) of three "Commandancias generales." As regards the one of Guatemala, the aforementioned law says: "*The second shall be composed of Sacatepéquez, the capital of which shall be New Guatemala, reuniting the districts (alcaldias mayores) of Solola,*

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Chiquimula, treasury district (intendencia) of San Salvador and Omoa." (Annex Number 1.)

This provision was well known in the Province of Honduras, having been legally communicated to the authorities thereof, who received same, and gave their approval with the utmost satisfaction. This is shown by the communication addressed by the provincial legislature (Diputacion) of Comayagua to the Emperor and which I attach hereto as annex Number 2.

By that law the Imperial Government of Mexico expressly left Omoa within the boundaries of the Province of Guatemala. That is a proof of our right of ownership to that place, inasmuch as it is to be supposed that the order given by the Emperor had taken into account the interests of Guatemala and Honduras at that time—a supposition which assumes the character of real certainty, when it is considered that if the measure had been issued without consultation and had not conformed to the interests of Honduras, the provincial legislature (Diputacion) of the latter would never have given its approval to it. But the said legislature approved the measure because it was favorable to Honduras; the Emperor, by fixing the Guatemalan boundaries to Omoa, in no way favored Guatemala, which had at that time and now has title to territory situated farther east; Honduras alone was favored, being given more territory than legally belonged to her. In no other manner can the gladness and rejoicing with which the news was received by the people and the Government of Honduras be explained, for surely no one rejoices upon having that which is lawfully his, taken away.

IV. ASSERTION THAT BY VIRTUE OF THE TREATY OF 1845, THE COMMISSIONERS OF BOTH STATES MET IN 1847 AND THAT THE DEMARCATION COULD NOT BE CONTINUED BECAUSE THE COMMISSIONERS OF GUATEMALA INSISTED THAT ACCORDING TO THE TREATY THEY COULD NOT ACCEPT ANY DOCUMENTS OTHER THAN THOSE REFERRING TO THE AREA OF THE DIOCESES, AND REFUSED TO TAKE INTO CONSIDERATION THE TITLE WARRANTS TO LANDS OR OTHER DOCUMENTS RELATIVE TO POLITICAL JURISDICTION.

NEGOTIATION OF 1847.

We regret to have to state that such assertion is equally inaccurate, and in order to defend the Guatemalan commissioners against the unjust incrimination thus made against them, we crave leave to relate what actually occurred.

Article XIII of the treaty of 1845, in its pertinent part, provides: "The States of Guatemala and Honduras recognize as their boundaries the boundaries set out for the dioceses of both in the royal

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ordinance of intendentes of 1786." Article XV: "This agreement, when ratified, shall have the force of law as between the two States."

The treaty, having become law by ratification, was expressly recognized by the Honduran commissioners, who pledged themselves to the following, as appears from the minutes of the conferences held in Ocotepeque on the 21, 22, and 23 of September.

1. To take as a basis for demarcation the boundary lines of the dioceses of Guatemala and Honduras.

2. To use the same basis for determining the individual points along which the line should pass, determining to which one of the dioceses said places belonged at the said time and having in consideration the informations and other documents that should be filed and

3. To have the said basis *invariably* established for everything that should be agreed upon in the course of the conferences.

Guatemala complied religiously with all the stipulations of the agreement, respecting the basis fixed for the said demarcation and accepting the documents which were introduced, even title deeds of ownership, which, as it is well known, are irrelevant for the purpose of fixing the ecclesiastical jurisdiction.

But this good and condescending disposition of the Guatemalans was not seconded by the Hondurans, and the demarcation had to be discontinued because the latter refused to abide by the provisions of Article XIII of the convention, or comply with the personal obligation which they had undertaken in the aforesaid proceedings, *to abide by and respect in everything the basis established in the treaty.*

And notice that the Honduran commissioners had no cause to ignore their engagements and violate the convention. They argued several frivolous pretexts as justification in their favor. The engineer, Señor Molina, attempted, at the conference of September 22, to suppress the second point of the minutes of the previous sessions, in which it was agreed to recognize the basis established in Article XIII of the treaty, and he founded his proposal on the fear which he entertained that his Government should bring charges against him if he should recognize a basis which was not included in his intimations.

Señor Molina's position suggests the reflexion that he did not tell the truth, or that the Honduran Government really did not give him any instructions to comply with the treaty. In the first case, it is regrettable to have to accuse the commissioners of lack of seriousness; in the second case, it will be shown that the Government of Honduras was not determined to abide by the convention.

Compelled by the severe logic of Señor Flores, the Honduran commissioners had to tell the truth, and at the session held on the 29th of September, as it appears from the respective minutes, they

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said literally: "*That they considered that step (to send for the ordinances of 1786) inofficious, because even although they should have it before them, they would not change their opinion that the agreement contained in article 13 of the treaty was very prejudicial to the State of Honduras, and that, therefore, they must not take it as a basis, nor subject themselves to it in the discharge of their commissions.*"

This was enough to put an end to the conferences; the negotiations could not be continued when it was officially declared that neither the treaty nor what was agreed upon by the commissioners would be respected or complied with. The work, however, was proceeded with by the insistency of the Guatemalan commission; but they were finally paralyzed because the Honduran commission went away, and sent to that of Guatemala, from Atulapa, a note dated the 24th of October of that year, in which it was stated that "*their Government, by resolution of the 13th instant, answering the question which they had put to it respecting the first part of Article XIII of the treaty, informed them that the aforesaid article should only be understood as referring to the uninhabited regions which might be found between the two territories which should not have been formally occupied by inhabitants of either State, because, as regards those lands occupied before the independence, no agreement could be reached for their alienation in a treaty, for the reason that both Governments lacked the powers for the purpose.*"

The work was, therefore, finally paralyzed, not through the fault of the Guatemalans, as it is asserted without any foundation whatsoever, but through the fault of the Government of Honduras and its commissioners, who, without any well founded and just cause, did not live up to the treaty and their agreement as shown in the proceedings. A treaty must be fulfilled always, even though one of the parties to it shall consider it as injurious, because being a bilateral contract, the will of only one of the parties to it is not enough to terminate it. That which is clear, like Article XIII, does not admit of interpretation; therefore, the interpretation put to it by the Honduran Government is out of the question, not only because it was not required by the provision, but also because it was absurd and unfounded, since Article XIII does not refer to inhabited or uninhabited regions, but only to the line within which all such places are included whether having any inhabitants or not. To interpret Article XIII in the sense that it only refers to uninhabited regions was, as we have already said, an absurdity, because the ecclesiastical jurisdiction is not exercised over uninhabited places, since lands and mountains can not receive the sacraments.

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ECCLESIASTICAL JURISDICTION.

Inasmuch as the Honduran delegation has referred to the treaty of 1845 in her historical account, we beg leave to make some brief considerations on the ecclesiastical jurisdiction, fixed in that treaty as a demarcation base.

We have already shown that Honduras refused, without any juridical reason, to comply with the treaty. We shall now demonstrate that she acted in this manner because she could not find any foundation in the ecclesiastical jurisdictions for her unjust and exaggerated claims. Indeed, she could not, relying on them, obtain the boundary which she desired, taking part of the Parishes of Esquipulas and Jocotan, and neither could she transfer the Motagua. Far from that, the ecclesiastical jurisdictions would carry the line, more or less, up to the point where it is established by the royal decree (cedula) of September 8, 1563, because there is a provision which marks out and defines the boundary line of the diocese and Province of Guatemala *ad mesuram*, fixing for them an extension of 214 leagues from the public lands of the Motocinta, which is its point farthest west, to Comayagua, which is the point more to the east.

But within these terms was not only included the ecclesiastical jurisdiction of the archbishopry of Guatemala during the colonial times, but it extended much farther; it reached the Choluteca, Nacaome, and other points beyond the line fixed by the royal decree of 1563, places which were afterwards invaded without any right whatsoever by the bishop of Honduras; and we say that the latter acted without any right whatsoever, because there was not instituted the respective proceedings which, according to the canonical laws, were indispensable in order that the separation might be legal and effective, as it may be seen among other documents from the letter which the bishop of Guatemala sent to the King on the 14th of July, 1676, inclosing the report which he had been requested to make regarding the annexation to the bishopric of Comayagua of the guardianship (cuardianfa) of Nacaome, which continued to be annexed to Guatemala.

It only remains now to say in few words that the ecclesiastical jurisdiction of the Parishes of Jocotan and Esquipulas, situated on the western slopes of the Merendon, Grita, Gallinero, etc., extended to the summit of the said mountain. Copan and the adjacent lands belonged to the Parish of Jocotan, which is corroborated, not only by the visits made on March 31st and April 1st, 1769, by the archbishop, Pedro Cortes y Larraz, by the general state of the archbishopric of Guatemala which was made in 1784, Dr. Cayetano Francos y Monroy, being the archbishop, and by other multitude of proofs which we will refrain from quoting, but by various maps,

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among which is the one number 116 of the Parish Jocotan in 1768, published by Torres Lanzas, in which appear as within the limits of this parish the valleys and towns of Copan. On June 27, 1812, was constituted the Parish of Esquipulas, separating it from those of Quezaltepeque and San Jacinto, and assigning to it, besides the town proper of Esquipulas, the valleys of Atulapa, Olopa, Los Horcones, Jupilingo, and Sulay, which are on the western slope of the range (cordillera), but which extend to the summit of the same. This appears from the respective original record of proceedings existing in the archbishopry of Guatemala and constitutes by itself conclusive proof.

Honduras, on the contrary, was and is in need of proof to extend her jurisdiction to the river Motagua; and she not only lacks proofs because she has not the right, but because she can not even prove the creation of the bishopry of Honduras, whose papal bull of erection were mislaid in the archives of the Vatican, as was assured by the Bishop of Honduras, Dr. Don Manuel Francisco Vélez, in a book which he published in 1897 under the title of "Erection of the Churches and Dioceses of Central America (Erecciones de las Iglesias y Diocesis de Centroamerica)."

As it is not our purpose to examine now the value which the treaty of 1845 may still have, we shall finish our considerations on the ecclesiastical jurisdictions, stating that the rights of Guatemala, examined also from that point of view, as we have already shown, carry the boundary line, more or less, to the one marked out by the royal decree (cedula) of 1563.

THE TERRITORIAL CLAIM OF HONDURAS AND THE GROUNDS UPON WHICH IT IS BASED.

TREATIES OF 1895 AND 1914, STUDY OF THE LINE, WORK OF THE JOINT COMMISSIONS, TITLE DEEDS TO LANDS, AND COLONIAL LAW.

The boundary line claimed by the high party on the opposite side is as follows: From Cerro Brujo to Cerro Obscuro and from this to Cumbre del Cuayabo; from this point to the confluence of the Rivers Motagua and Managua, and hence to the boundary line of Belice.

We shall make the analysis of the aforementioned claim and the foundations upon which it rests: From this analysis shall appear its lack of justification, and we must state first that this demarcating line does not meet the provisions of the treaty, nor any colonial tradition, because it overrides the ancient provincial separations.

I. TREATIES OF 1895 AND 1914.

In the memoranda of May 24 as well as in the amplification of the 30th, the Honduran delegation admits and accepts that in order

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to define the boundary line between Guatemala and Honduras, it is necessary to abide by the stipulations in the treaties of 1895 and 1914, the last of which is the only one in force, but both of them are identical in their stipulations, except as to those stipulations referring to the arbitrator. To that effect the high party on the opposite side quotes article 6 of both treaties: Upon this ground she sustains the order of the said article in order to appreciate the value of the evidence on which the demarcation of the boundary line must rest; following such ideas, she argues that the work of the joint technical commission is the primary basis of the demarcation, and she is so scrupulous and strict in this part, that in referring to the validity which article 13 of the treaty of 1845, which rests on the ecclesiastical jurisdiction, might have, she refuses it, and, relying on the aforesaid article 6, she invokes the order therein established and relegated to the fourth place such documents as referred to the dioceses.

Guatemala gladly accepts the principles sustained by the honorable Honduran delegation, that as regards the demarcation of the boundary line all the stipulations contained in the treaties of 1895 and 1914 should be scrupulously observed.

Before commencing the study of the line, it is advisable to fix the order in which the proofs established in Article 6 of the treaty of 1895, which is identical to that of 1914, must be appreciated. This article fixes the following order:

1. The observations and studies of the said Joint Commission;
2. The lines demarcated in public documents not contradicted by others *of the same class and of greater force*, giving to each the value which shall belong to it by reason of its antiquity and legal efficacy;
3. The comprehension of the territory which constituted the old Provinces of Guatemala and Honduras to the date of their independence;
4. The provisions of the royal ordinance of intendentes which was then in force and,
5. In general all such documents, maps, plans, etc., which may lead to the discovery of the truth, giving the preference to those which, by their nature, must have more force by reason of their antiquity, or because they be clearer, more just and impartial, or by any other reason founded upon the principles of justice.

Furthermore, the article says that possession shall be taken into consideration only in so far as it is just, legitimate, and well founded; that is to say, that we must look only to possession juris and not to possession de facto.

All that is what is established by law, and all that is what is fortunately accepted by the two parties.

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II. STUDY OF THE LINE.

The Hon. Señor Bonilla, worthy president of the Honduran delegation, relies for the support of the line which he claims, on the work of the joint commissions, according to the treaties, on title deeds to lands and on colonial law. This line he divides, in connection with its fragments, as follows: That portion from Cerro Brujo to Cerro Obscuro and from this to Cumbre del Guayabo he rests upon the work done by the Joint Commission during the years 1908, and 1909 and 1910; from the last-mentioned point to the confluence of the Rivers Motagua and Managua, on title deeds to lands and all other documents which may throw light on the matter in accordance with the convention in force; and, from the confluence of the said rivers to the boundary line of Belice, on colonial law, and he cites in his support the following documents to be now examined by us:

(*a*) FIRST PART.—From Cerro Brujo to Cerro Obscuro and from this point to Cumbre del Guayabo: As we have just pointed out, this first portion of the line, is founded by the Honduran delegation on the work of the Joint Commission, carried out during the years 1908, 1909, and 1910. Before entering into an examination of this work, it is advisable to state that the said work was done under the treaty of 1895 and must have been executed according to its terms, inasmuch as nothing to the contrary can in any sense be allowed to prevail. This principle is recognized in Article XVI of the treaty of 1914, in force, where the work executed by the Joint Boundary Commission is declared as valid *by virtue of and in accordance with the convention of March 1, 1895.*

Taking this principle as admitted, we must state that the work carried out by the aforesaid commission during the aforementioned years, and on which is based that portion of the line claimed by the Honduran delegation, is null and void, because it does not comply with the convention of 1895, and because it was executed clearly in violation of the same. The reasons are the following:

(1*a*) Because the surveys and plans of the engineers went much farther than the boundary line, which constituted a violation of Article II of the treaty which only allows that the said work be carried out upon the soil of the said boundary line, and it can not be invoked in support of the agreement arrived at by the commissioners by which they empowered themselves to go as far as they wanted to, because inasmuch as this agreement was in violation of the provisions of the treaty, it could have no value at all.

It is well known that the surveys of this boundary line referred to territories situated within the limits of the country.

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(2*a*) Because the commissioners were only permitted in the treaty to carry out their work on the frontier: This word is equivalent to boundary. A boundary means end—limit. The word comes from the Latin "limes," and it is always used to indicate the line of demarcation between two adjoining fields. It has the same sense in all languages derived from the Latin. Tommaseo defines the term "limit" in the sense of terminus, limit, frontier. In French, "limit" is the "ligne de séparation qui sépare deux États, deux Provinces." Calvo in his Declaration of International Law says: "Limite, ligne de démarcation entre des territoires contigus ou voisins." We see, therefore, that the natural sense of the word indicates that the engineers must have confined themselves to surveying the small portions of territory situated on the limits of the two countries, without going beyond. To do this constitutes, as we have said, a violation of Article II of the treaty.

(3*a*) Because the commissioners in the work of the already mentioned years of 1908, 1909, and 1910 fixed the line of actual possession in flagrant violation of Article VI of the treaty, which establishes the *uti possidetis juris de 1821*, so that if they were to fix any line of possession this ought to have been the one of that year, and not the one of eighty-five or ninety years afterwards.

(4*a*) The commissioners also violated the second fraction of the same Article VI, because, if they were to determine a line of possession, it was not the line of possession, in fact, which this provision of the treaty refuses when it provides that value shall be given to possession only in so far as it is just, legitimate, and well founded, but the line of possession in law, which is the only one admissible by the convention. The line of possession in fact, which was the one established, proves absolutely nothing, neither is it possible nor proper, according to the treaty in force, to rely on it in order to establish the boundary line. Therefore, the claims of the Honduran delegation in invoking this line—which we refuse—for the demarcation, is absolutely devoid of legal force. The line of possession in law is the proper one, and this shall be so as long as no other royal decree (cedula) for the demarcation of boundaries is shown as clear and of greater force (as Article VI) than the one established by the royal decree (cedula) signed at Zaragoza on September 8, 1563.

(5*a*) Because as the Joint Commission went along with the work it also violated the treaty by examining the documents disregarding the order fixed in Article VI, and in disregarding it they acted arbitrarily. In fact, the Honduran Commissioners gave to the title deeds to land of private ownership an importance that is not given to them by the treaty in force, which does not even mention them expressly when enumerating the documents and when establishing the order

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and probatory value which must be given to them in fixing the boundary line. If the intention of the treaty had been that the title deeds to private property should constitute the principal and most solid foundation for the demarcation of the boundary lines, it would undoubtedly have said so, declaring that these title deeds were the first and most efficacious documents for ascertaining the title line, because the treaty fixed the order in which they must be taken into consideration, but the treaty fixed the order in which they must be taken into consideration, but the treaty not even mentions the title deeds to private property, and therefore, on what grounds can they be placed in the first class? What right is there to strike out with a single stroke the order and documentary value clearly established in Article VI of the treaty?

Besides the well-founded reasons already stated, which show the nullity of the work of the commission on account of the violation of the treaty of 1895, there is another which clearly nullifies the said work, and that is the lack of harmony in the work of the said commission. The discord was manifested whether in the appreciation of the legal value, which must be given to the documents in support of the boundary line, or in the fixing of the latter. Indeed, as regards the title deeds to private property, the Commissioners of Guatemala objected to them as irrelevant for the purpose, while those of Honduras maintained ever since that it was precisely in view of the title deeds that demarcation should be made. This disagreement therefore invalidates such documents, and therefore they can not be invoked as fortified by the work of the commission. As regards the demarcation of the line, each commission proposed a different one, with a provisional character, and reserved to themselves the right of proposing later, upon better grounds, another line, more extended; the line fixed by the commission under these terms, undoubtedly, has no value whatsoever, neither can it be taken as a basis for the one which must be finally fixed, inasmuch as either party could with the same right, argue that the provisional line proposed by her should prevail.

(*b*) SECOND PART.—From the Cumbre del Guayabo to the River Managua in its confluence with the Motagua: In fixing the line on this portion, the Honduran Delegation based it to Suspiro de Tisamarte on the old title deeds; from that point on the title deed to Managua issued by Honduras in 1885, and on opinions, documents, and informations.

We shall consider these documents separately.

1. TITLE DEEDS TO LANDS.—We have already stated that title deeds to land are not documents with any principal probatory value according to the treaty. It remains now for us to make some other

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considerations in order to show conclusively that this ground of the Honduran claim is also untenable.

In the first place, the title deeds to private property prove nothing, inasmuch as they do not prove the right under which they have been issued, because they are executed without the notice or summons of the neighboring State. And even supposing that they should have some value as evidence, Guatemala could also sustain her possession successfully as regards this kind of documents. She could introduce many more title deeds to property than Honduras, issued by herself before the independence; she could revindicate up to Trujillo, where the President of Guatemala used to issue title deeds to lands as it is proven by the attached documents as annexes to three and four. Among the title deeds introduced during the work of the Joint Commission Honduras presented nine title deeds which had been issued previous to 1821, while Guatemala introduced eleven. Honduras, lacking real title of ownership, has attempted to support her rights by title deeds issued after 1821 and for that purpose presented seventeen of them to the commission; the only thing proven by this is the improper advances made by Honduras upon the territory of Guatemala, since the independence to the present time, as we shall amply prove at the proper time. Guatemala, on her part, has also very many title deeds to lands, which were rightfully issued after 1821; but she does not wish to use them because this would not be in accordance with the treaty which fixed the *uti possidetis juris* of the same year.

In conclusion we shall say that the title deeds to private property can only be considered in the absence of royal decrees (cedulas) and other documents stated in Article VI of the convention, because there is no doubt that if in this convention they are not especially named, it is because they must come after those enumerated and classified by it.

Title deeds to lands are not, therefore, valid to show ownership in Honduras, as against the royal titles which Guatemala possessed.

2. OPINIONS, DOCUMENTS, AND INFORMATIONS.—The Honduran Delegation wishes to take as a basis a dictum of Padre Juarros, who, without giving any reason or any grounds whatsoever in support, asserted in his "Compendio de Historia," referring to the River Motagua, that "That river whose source is in Chimaltenango and which, in its long course, takes many names and afterwards takes the name of Motagua, which is the boundary line of this Province and that of Honduras * * *." This personal, private, and unfounded opinion of Padre Juarros is absolutely without probatory force, being founded upon no document or grounds whatsoever; it is clearly a gratuitous and whimsical asser-

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tion, of no value as evidence. And we could even add that if other historians and geographers assure us of the same facts as does Padre Juarros, copying and adopting his writings according to the heroic art of Piñeyro, which consists in copying from one another, as Padre Vallejo says in the "Revista de la Universidad de Honduras," such assertions could not prove anything at all, inasmuch as they are based solely upon the unfounded statements of Padre Juarros.

And referring to the opinions expressed by chroniclers, other historians, and geographers, we must say that for our purpose they have no general value as evidence, whether they are from persons of note who lived before or after the independence, and because such testimonies are not documents from the Crown or from the colonial officials, which are the only probatory elements which must be taken into consideration in conformity with the treaty.

The Honduran delegation mentions also, in its report, the instructions written on the date of June 14, 1847, by Dr. don Miguel Larreinaga and don Alejandro Marure; but this document proves nothing, for two reasons:

First, because they rest only on what was said by Padre Juarros, and inasmuch as this is no evidence, much less will be the assertions of these gentlemen, who did nothing but adopt (without consideration and without presenting any reason or grounds for it) the statements of Padre Juarros. The conclusion is that this was the one who, by the famous system of Piñeyro, gave origin to the error that the Motague was the boundary line; and

Second, because even supposing that these instructions should demonstrate that the Government of Guatemala was, in the year 1847, inclined to agree that the boundary of Honduras should be the River Motagua, this could not prove the right of property of the latter country to this point, but only the intention of the Government at a remote period; and it will not be amiss to suggest that a State may many times, although fully conscious of its right, be compelled to make concessions to reach a friendly settlement, on account of political considerations essentially changeable, which depend on its possession or on that of its adversary; but the value of the object of the concession changes according to the times. Guatemala could, at a given time, agree to cede territory which could not then have great importance for her, and the relinquishment of which would impose upon her at the present time an excessive sacrifice on account of the interests which she has created, and because the value of the said territory has increased with time, thanks to the efforts of the Guatemalans.

The aforesaid instructions can not, therefore, have any influence on the legal solution of the question.

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It has been attempted to give value to notes of political chiefs and other authorities, as well as to testimonal informations and other documents of the kind. But as all of those documents are dated, and refer to facts which took place subsequent to the year of the Independence, they can not and must not be taken into consideration, because the treaties establish the *uti possidetis juris de 1821* as a guide, so that everything done or said after that date means nothing and can prove nothing, neither can it be taken into consideration because this would be a violation of the provisions of the said conventions. As regards the testimonial informations introduced, what value can they have? None, because they refer to facts subsequent to the year 1821, and because no scientific and just demarcation of the line could be made if we were to rely on the testimony of witnesses, who lack all sort of knowledge in the matter, and who are interested parties, and therefore, biased in the case. On the other hand, if testimonial evidence is of such scant value that it has been refused by almost all the legislations in cases where the amount involved is large, how could it be admitted as a basis to fix the boundary lines of a nation?

(*c*) THIRD PART.—From the confluence of the Rivers Managua and Motagua to the boundary line of Belice: The Honduran delegation bases this portion of the line on the colonial law, invoking—among various documents relating to letters, reports, accounts of governors, judges, and opinions of travelers, which have no legal value whatsoever—a decree of the Spanish monarch of the year 1745, appointing Colonel don Juan de Vera, governor and general commander of the Province of Honduras. The said decree has no value because it emanates from the king, and we are the first ones to acknowledge it, but we absolutely refuse to acknowledge it for the purpose of giving to Honduras, as her delegation claims, dominion over all the territories, and coasts comprised from the point where the jurisdiction of the governor and captain general of the Province of Yucatan ends to the Cape of Gracias a Dios.

This, we shall proceed to prove. The appointment of don Juan de Vera as governor of Honduras has several aspects. He was appointed governor of that Province and it is clearly stated that he must discharge that office "with the same powers, jurisdiction, and authority as discharged by the other governors according to law." If Señor de Vera was therefore to serve as governor of his Province with the same jurisdiction possessed by his predecessors in the discharge of the office, there is no doubt that by this appointment there were no alterations made as to the boundaries already established. The king appointed him also general commander of his armies—that is to say, the army of the said Province of Honduras; of the lands included within all the bishopric of Comayagua, of the "Partido" and dis-

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trict of the alcaldia mayor of Tegucigalpa and of all the territories and coasts included from the point where the jurisdiction of the governor and captain general of the Province of Yucatan ends to the Cape of Gracias a Dios, and, finally, he appointed him general commander of all the aforesaid Provinces and territories for the purpose of preventing the carrying out of illicit commerce.

It is seen that the appointment of Juan de Vera did not give him anything more than the military command and the power of preventing contraband within the territories and coasts which should not belong to the Province of Honduras; it did not assign nor annex territories to this Province, and the territories from Yucatan which were not within Honduran jurisdiction were subject to the political command of the President of Guatemala. The charge which for the aforesaid limited purpose was assigned to Señor de Vera had a special, personal, and transitory character, owing to the circumstances: The royal decree which was issued on January 2, 1747, appointing as governor and captain general of the realm of Guatemala, the field marshal, don Francisco Cagigal de la Vega, and which was communicated to don José de Araujo y Río, successor to the latter, revokes the powers which were given to de Vera as regards military affairs, and for the purpose of preventing contraband, and explains the reason of its issuance, stating that they were given to him "*because the President of Guatemala was a mere lawyer.*"

The same royal decree clearly indicates also, in fixing the extent of the powers granted de Vera, that on their account, the provisions relating to other purposes should not be considered as repealed, and it states it in the following terms: "* * * * and I give you full discretion on all military matters and in all other matters relating to the vigilance over and prevention of illicit trading, or pertaining to any other jurisdiction, *and to this effect I hereby repeal any laws, decrees, and orders which might provide anything to the contrary, said laws, orders, and decrees to remain in force as to all other matters.*" Therefore, His Majesty gave to de Vera entire jurisdiction for the aforesaid purposes, within the aforesaid territories, and to that effect he repealed any laws which provide anything to the contrary; but he left them in force for all other purposes, so that those which fixed the territorial boundries of the Provinces remain, therefore, in full force.

The office conferred upon Señor de Vera was so especial that later on in the same decree of his appointment it is said "in whatever pertains to civil, criminal, or administrative cases of the province of Honduras, and the city of Comayagua, you shall introduce no changes, because the procedure in such matters shall be as heretofore." Afterwards, in the same document, he is ordered not to interfere with the political and civil government of the alcaldia

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mayor of Tegucigalpa, nor with any other gubernatorial districts or the coast, where he gave him the military command and powers of vigilance over, and prevention of illicit trade; that is to say, the territories and coast from Yucatan, because that was to continue to be vested, as theretofore, in the alcalde mayor or governor thereof (annexes 5 and 6).

In colonial times it was customary to vest subsequent jurisdiction in a viceroy and captain general or a governor over a province which was not his, while this was not understood to modify the territorial demarcation.

Let us say, in this respect, the opinion of the distinguished Spanish statesman and publicist, don José Canalejas y Méndez, which was expressed on the boundary question between Ecuador and Peru, in the solution of a case identical to the one before us.

He says: "* * * in the royal decree (cedula) of 1802 it is alluded only to a reorganization of a special service, which by reasons of administrative character pass from one authority to another. It is indispensable to distinguish between the territorial demarcation, which is represented in the political organization of the colonial empire by the sovereign, authority of the King of Spain, which manifests itself in a subordinate sphere of government, and the circumstantial organization of the administrative services, as for example, the missions or the defense of frontiers which not always corresponds with the territorial division effected from the political point of view or the total exercise of sovereignty. A territory may, without any inconvenience, have a proper demarcation for its internal political life, of a total character for example, a municipality, a Province, a superior judicial district (audiencia), a viceroyship, yet, for one or another cause, it may depend as regards ecclesiastical, military or judicial maters, on special authorities residing outside of the same, and such dependency does not in the least rectify the proper value of territorial demarcation which expresses the accommodation of the Political Empire."[1]

The King did not, therefore, assign any territorial right to the Province of Honduras by the appointment of Don Juan de Vera, neither did he modify its boundaries in any respect: these boundaries were determined by the laws of the sixteenth and seventeenth centuries, and the Spanish Monarch preserved them until the time of the independence, as it is shown by the petition of the constitutional municipal council (ayuntamiento) of the city of Comayagua, asking the formation in it of a provincial board in conformity of article 325 of the Spanish constitution, in which petition is found the repre-

[1] Boundaries between the Republics of Ecuador and Peru. Opinion by Don José Canalejas y Méndez. Page 50.

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sentation of the Constitutional Solicitor General Don Juan Francisco Clavasquin, who under date of October 16, 1820, says—in order to show that the Province has a right to a legislature (diputación)—the following: "No one doubts that Comayagua is, since its conquest, such a Province, and Law 15, Book V, Title I, of our Indian Recopilation sets forth in detail its boundaries which are the islands of the Guanajas," (annex No. 7).

All this is corroborated by Father Vallejo, an illustrous Honduran who was as patriotic as learned on this matter, in a debate which he sustained against Dr. Santiago I. Barberena, published in the Diario de Centroamérica, of Guatemala, and, after showing that the appointment of Colonel de Vera did not introduce any alteration in the Province of Honduras, he says: "That the establishment of the treasury district (intendencias) of 1786, did not introduce any modification, dismemberment, or division in the boundaries which had been assigned to the Province of Honduras." He maintains also that neither the constitution of the Spanish Monarchy, which was decreed in 1812 and reestablished in 1820, nor in the royal ordinance of May 8, 1821, introduce any alteration in the boundaries of the Province of Honduras. The same thing is stated in the political constitutions of that state of the years 1825, 1848 and 1865, which do nothing but recognize that the boundaries of Honduras are the same which she had during the Spanish domination. To claim, therefore, that the rights of Honduras by the simple reason of the appointment of Don Juan de Vera, extended to the limits of Yucatan, is entirely absurd: the foregoing and the documents on which we base our contentions are enough to demonstrate it, and we entertain the hope and believe our reasons shall be sufficient for the honorable representative of Honduras to be convinced of our right, a conviction which we earnestly wish to convey to his mind, if—as he has said—it is enough for him to obtain it when a document be shown to him which shall contradict those which he cites in his report, especially the Decree regarding the appointment of Don Juan de Vera as Governor. And if all these should not be sufficient, a practical fact might contribute to convince Senor Bonilla that we are right. Why was it that England, many years after the independence negotiated with Guatemala and not with Honduras, the cession of the territory of Belice? Could England, who is a serious nation, aware of the rights of the others, have negotiated with Guatemala if she had not been absolutely certain that she was dealing with the legitimate proprietor of these territories? No. She would never have done it, and, if she had had any doubt, she would have dealt also with Honduras as she did with Mexico, with whom Guatemala had disputed the ownership over Belice, in that portion of it contiguous to Yucatan.

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As to the other documents suggested by Senor Bonilla, we must repeat that none of them have either value or efficacy to prove territorial dominion. We could, on our part, cite documents of this kind ad infinitum. A proof of it will be found in the following which we take at random from our documents:

1. Year 1577. Letter from Capt. Diego Lopez to His Majesty, dated May 10, 1577, in which, informing him of the necessity of fortifying the port of Trujillo, the command of which he had, he says: "I now warn and pray again, Your Majesty, for its remedy, because if this is protected, Puerto de Isballas and Golfo Dulce, which is a port of Guatemala, will be protected."

2. May 23, 1675. Royal decree (cedula) to the Bishop of Guatemala ordering him to report as to what was supplied from the royal exchequer for the sustenance of the infantry and the watch of the port of the Gulf of the said Province by which it is shown that it belonged to Guatemala.

3. August 27, 1776. Royal decree (cedula) to the royal officials of Guatemala approving the payments made by them to provide cake and meat for the castle of the gulf, by which it is proved that the said castle was within the boundaries of the Province of Guatemala.

4. Years 1754, to 1756. Among the documents which show that the jurisdiction and sovereignty of Guatemala extended beyond the River Ulúa, is the record No. 47 of the years 1754 to 1756, on page 11 of which appears the commission given by the King to fix the residence of alcalde mayor of Tegucigalpa from which it appears *the latter belonged at that time to the Province of Guatemala.* In the material portions of this commission, the king said: "* * * * Don Hermenegildo de Armeño, and in case of your default, absence or another legitimate impediment, Don Juan Jph de Arenas—and in case of that of both, Don Manuel Ortiz—it behooves to my service and execution of justice that residence be assigned to the last named which should have served the—office of alcalde mayor of the *city of Tegucigalpa in the Province of Guatemala*—and to those who by their demise, absence, or other legitimate impediment would serve or should have served the said office and to the lieutenants, ministers, and officials of all, and to the caldo * * * justice, and government of the said city and its jurisdiction. And, hoping that you * * * etc."

5. June 18, 1755. Letter of the President of Guatemala to Don Alonso de Arcos Moreno on the opening of a road from Gualán to the port of Omoa, by which it is proved that those places belonged to the Province of Guatemala.

Having finished the consideration of the Honduran claims and the grounds upon which they are founded, we have completely shown that they are wanting in reason and right.

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It is now proper that we should now make a brief survey of our claims in order that, through a comparative study of documentary values, we may show the justice of our cause—indicating, in order to satisfy the wishes of the honorable Honduran delegation, and although we have already shown very clearly the rights given to us by royal decree (cedula) of 1563, which is the line which we claim in conformity with the said document.

The boundary line between Guatemala and Honduras, according to the royal decree (cedula) of September 8, 1563, is a straight one from the most easterly part in the Gulf of Fonseca—fixed at the point where the boundary between Honduras and Nicaragua commences in said Gulf of Fonseca—and running in a northern direction, fifteen and one-half degrees west about two hundred and fifty-three kilometers to the confluence of the rivers, Santiago, Humuya or Humuya, near the town called Santiago, from whence it runs down along the River Ulúa to its mouth on the Caribbean Sea. The preceding data is taken from the map of Honduras, by A. F. Byrne, civil engineer of Honduran Government, published in 1886, which, besides appearing to be the most accurate of the country, has an official character owing to the fact that the Supreme Government of the said Republic has ordered its sale.

THE GUATEMALAN CLAIM AND THE GROUNDS UPON WHICH IT IS FOUNDED.

ROYAL DECREE (CEDULA) OF 1563—UTI POSSIDETIS JURIS DE 1821—THE CESSION OF SPAIN.

Guatemala, according to the treaty in force, bases her contentions on the royal decree (cedula) signed at Zaragoza on September 8, 1563. Its delegation has made a complete study of this decree in the memorandum filed by the said delegation on the 24th of May, and it only remains, so far as this reply is concerned, to make an analysis of it as a probatory document.

In this sense, it is an unchallengeable document, for the reason that it is a provision emanating from the Spanish sovereign, and because it was issued with the only object of fixing the boundary lines between the provinces of Guatemala and Honduras.

For these reasons, there is no doubt that this document is evidently included in the second category established by Article VI of the treaty, and according to the same, its probatory value can be neither modified nor destroyed except by another document of the same class, that is to say, by another royal decree (cedula) which shall have no other object than to demarcate the boundary lines between those provinces and to effectively fix another boundary line. There is still necessary another condition, and that is that such royal decree (cedula) must have greater force because

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the treaty textually says: "*the lines demarcated * * * not contradicted by others greater force.*" These two conditions must be present at the same time, because both ideas, *same class and greater force*, are united by the coordinate conjunction "and." If one of these two conditions were to be sufficient, the language would have been of the same class or of greater force.

Among all the documents presented by Honduras, through her commissions during the years 1908, 1909 and 1910, as well as now through her honorable delegation, not even one document has been presented or alluded to of the same nature and of greater force. Therefore, the royal decree (cedula) of September 8, 1563, presented by us, preserves all its value and probatory force, and, according to law and to all the treaties in force, the boundary line between Guatemala and Honduras which is fixed by the aforesaid decree (cedula) and which our delegation announced in its previous memorandum is strongly proved.

We need not present any other documents. This one is sufficient because it is complete and because it defines exactly the boundary line to the extent of the whole territory. It is not the number of documents which must give greater right, but the strength, the efficacy, the quality of being incontrovertible of the one which shall be presented.

There is no need whatsoever to enter into a consideration of the efficacy of the documents which might be included in the third, fourth, and fifth classes. It is clear that a map, a letter, a title deed of property or any other similar document could neither destroy nor modify the legal efficacy of the probatory force of a royal decree (cedula). What can the assertion of a chronicler mean as against an order of the King? What value can a map, a titled deed of property, a few instructions have as against the precepts of the monarch when fixing the boundary of a Province? If it should prove anything it would be that the authority who had issued it had committed an abuse, if not a crime. It could never be hoped that such a title deed could have a greater value than the supreme authority of the sovereign.

We shall only add two words with respect to the comprehension, namely, the uti possidetis juris of 1821. According to the treaty in force which refuses a possession in fact and accepts only a just, well-founded, and legitimate possession, territorial comprehension is the extent of territory comprised within the boundaries fixed by law. Thus the comprehension of Guatemala in 1821 is the one marked out by the decree (cedula) of 1563 on the side of Honduras. Her legal comprehension extended to this point, although in fact she should not be in material possession of it on the account of

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special circumstances. It is the same as in the civil law: one thing is the legal possession and another thing is the mere holding of the land. The juridical comprehension of Guatemala, on the Honduran side, extended therefore up to the boundary marked out in the aforesaid royal decree (cedula): if Honduras had the mere possession of some part of it, this does not destroy the right.

Consequently, if the territorial extension of both Provinces under Spanish domination was the one stated in the royal decree (cedula) to which we have referred, there is no doubt that when they were emancipated from the mother country they constituted themselves as States with the same boundaries which they had while they were Provinces. This is not only founded on the treaty but also on the principles of international law consecrated by all the authors both old and modern, it being sufficient for the purposes to quote the Marquis de Olivart, which I have in my hands. This author says: "The eternal continuity of the Republics, the existence of succession in the powers and obligations of the States through the forms which they shall assume, is a foundation * * * so necessary to international law that it is confounded with its essence. If with every change in the political organization of human occupations, former pledges should be obliterated, debts extinguished and paid, and territories should become vacant, the anarchy in the society of peoples would be no less than the anarchy which would prevail in ominous preponderance in a society, the civil law of which should have as a canon that the decease of a man should mean the complete extinction of his juridical patrimony.[1]

This principle has not only been stated by text-book writers, but it has also been applied by the courts. The significant opinion of Mr. Justice Story in the case of Terret *v.* Taylor (9 Cranch Reports, 49) proclaims that the permanence of territorial rights through changes of sovereignty is a question of common sense and eternal justice. He says: "It has been asserted as a principle of the common law that the division of an empire creates no forfeiture of previously vested rights of property, . . . and this principle is equally consonant with the common sense of mankind and the maxims of eternal justice."

Why, then, should the Provinces of Guatemala and Honduras have at the time of the independence, altered the boundaries which had been fixed to them by the Spanish Monarch? There is no reason for this and should the foregoing fail to convince the Honduran delegates, it might be perhaps sufficient to know that Guatemala, after the independence, had dominion over Omoa, as

[1] On the principles which govern territorial succession upon changes of sovereignty and their application to the boundary question between Ecuador and Peru, by Marquis de Olivart, page 2.

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it is shown by the aforementioned law of territorial division issued by the Government of Iturbide,—a right which Guatemala has, neither in this part nor in any other of the territory up to Ulúa, ever relinquished, but which, on the contrary, she has always tried to maintain alive, it having been specially ceded to her by Spain in the treaty of acknowledgment which concluded in the year 1863, and which in the material portions to this question says: "Article 1. His Catholic Majesty recognizes the Republic of Guatemala as a free, sovereign, and independent nation, composed of all the Provinces mentioned in her constitution in force *and of all the other territories which legally do now or shall in the future belong to her;* and exercising the powers given to him by the enactment of the General Legislature (Cortes) of the realm of December 4, 1836, he relinquishes in due form and forever for himself and his successors the sovereignty, rights, and actions which belong to him over the territory of the aforesaid Republic."

The Marquis de Olivart, interpreting, in his aforementioned book, this article of the treaty of acknowledgement concluded between Spain and Ecuador, in the same terms as ours, declares that the intentions of the final paragraph of the said article is to cede also the realm and presidency of Quito such of her territories which had been detained by another State, and this intention is expressed therein as follows: "And the article ends by a generalization of important consequences. It says: And (she recognizes to her) also any other territories which belong or may belong to the said Republic of Ecuador. *That is to say, if there was in the hands of a third State any territory which legally belonged or which might belong to the realm of presidency of Quito, Ecuador could claim it as successor and donee of the former sovereign.*

The foregoing briefly set forth the grounds upon which the claims of Guatemala are founded, grounds which are solid, indisputable and of incomparable value and efficacy. They show that her right is clear and that her claims are just; nevertheless as we inspire ourselves in the most fraternal and conciliatory sentiments, this is no obstacle, as we have already said, to our listening to equitable proposals which take into consideration the real interests of the two nations.

We must settle this annoying question which has for so long engaged the attention of the two countries. The times above all impose on both Governments the duty of arriving at a prompt and cordial adjustment, as in the present situation of the general politics of the world only fatal results for the prosperity and internal and external consideration of the peoples could come out of discord.

LUIS TOLEDO HERRARTE.

WASHINGTON, *June 25, 1918.*

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ANNEX NUMBER 1.

A LAW RELATING TO THE TERRITORIAL DIVISION OF THE KINGDOM OF GUATEMALA, ISSUED BY THE GOVERNMENT OF ITURBIDE ON NOVEMBER 4, 1822.

Four seals, two *reales;* third seal, two *reales.* Years one thousand eight hundred and ten and one thousand eight hundred and eleven, excellency: His excellency, the first Secretary of State and of the office, has communicated to me under date of November 4, the following order of his imperial majesty, to wit: The following order has been communicated to me by his excellency, the Minister of War and Navy, excellency: His imperial majesty, who takes so much interest in contributing to the wishes and happiness of his subjects, not wishing to deprive the inhabitants of the western Provinces united to the great empire of Anacahuac of the benefits of their constant and repeated prosecutions, has come to the conclusion and resolved that, for the time being and until the courts shall make a convenient division of the Empire, there shall be formed three "Comandancias generales," which shall embrace and correspond to such district. The first shall be composed of the Province of Chiapa, including its treasury district (Distrito de su Intendencia), the districts (partidos) of Tabasco, Chontalpas, and the two districts (Alcadias Mayores) of Totonicapan and Quezaltenango, and the seat must be City Real, since it is the seat of the treasury district (intendencia), and because it is placed in the center at an equal distance in every direction; and I appoint for such an office don Miguel Gonzales Saravia. The second shall be composed of Sacatepequez, the capital of which shall be the New Guatemala instead of the old as heretofore, reuniting the districts (Alcaldias Mayores) of Solola, Sonsonate, Chimaltenango, Verapaz, Suchitepequez, Chiquimula, treasury district (intendencia) of San Salvador and *Omoa;* and I appoint for the said office the Brigadier don Vicente Filisola. The third shall be composed of the Province of Costa Rica, Puerto de Trujillo, and the two treasury districts (intendencias) of Comayagua and Nicaragua, with complete integrity of their territories, its capital being Leon de Nicaragua, because it is in the center; and I appoint for the said office the Brigadier don Manuel Rincon. These *comandancias generales* shall be independent of each other, and they shall communicate directly with the respective ministries; but they shall fraternally aid each other whenever the common cause, the interest of the defense or security of the State, shall demand it. And as the aims of His Imperial Majesty are the happiness of Provinces which deserve his particular attention, and in order that its inhabitants shall enjoy greater prosperity, he has been pleased also to resolve that the

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before-mentioned general commanders (comandantes generales) designated by the inserted order shall consolidate for the time being *the superior political commands of their respective Provinces*, in order to make them uniform with the others of the Empire; and that for the speedy administration of justice, they shall recognize the territories of the Provinces of New Guatemala and Leon de Nicaragua to the judicial district (audiencia) of Guatemala and those of Chiapa to that of this court; until later when the proper course shall be determined as to the establishment of judicial districts (audencias) throughout the Empire. By order of His Imperial Majesty I beg to communicate the foregoing to your excellency for your knowledge and satisfacton, and in order that you may cause it to be extended to the authorities to whom it may concern, for compliance therewith. May God safeguard your excellency for many years. Mexico, November 4, 1822. Herrera. Señor Brigadier don Vicente Filisola, I beg to communicate it to your excellency for your knowledge and resulting effects, and I hope you will acknowledge receipt of the same. May God protect your excellency for many years. General Quarters of Mapilapa, January 9, 1823. Vicente Filisola. The honorable *Audiencia Territorial* of Guatemala. Four seals, two "reales;" third seal, two royal. Years 1810 and 1811, decree, judicial district of Guatemala, January 18, 1823. In view of the preceding imperial order, let its provisions be kept, complied with, and executed. Let its acknowledgment be communicated to the superior political authority; let it be copied on the books of the office and the original filed in the archives—Moreno—Baltranena—Moreno Sanz.

ANNEX NUMBER 2.

COMMUNICATION OF THE PROVINCIAL LEGISLATURE (DIPUTACION) OF HONDURAS, ACCEPTING THE TERRITORIAL DIVISION REFERRED TO IN THE IMPERIAL ORDER OF ITURBIDE OF NOVEMBER 4, 1822.

Excellency: This legislature (diputacion) incloses herewith to your excellency a memorial for His Imperial Majesty, in which the said legislature (diputacion) thanks him for having deigned to incorporate this Province, so far as political and military matters are concerned, into the Province of Leon of Nicaragua, in order that your excellency may please transmit it to its destination. May God protect your excellency many years. Provincial legislature (diputacion) of Comayagua, January 9, 1823. Excellency: Juan Carrigo, Juan Jose Montes, Joaquin Estrada, Jose Calixto de Valenzuela, Santos Bardales, deputy secretary. To his excellency the minister of home and foreign relations.

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Two stamps, one *quartillo;* stamp *quarto*, one *quartillo.* Years 1818 and 1819. Paymaster at Comayagua for the Mexican Empire for the years 1823 and 1824. Sir: The provincial legislature (diputacion) of Comayagua, capital of the Province of Honduras, from the very moment in which it saw the sovereign resolution of Your Imperial Majesty, of November the 4th of last year, which was communicated to that superior political government in which Your Majesty has deigned to incorporate this Province into the Province of Leon of Nicaragua, so far as political and military matters are concerned, has not as yet ceased giving thanks to the Almighty, and considering itself free from the old yoke of Guatemala, which for so many years weighed down upon this Province, thanks, with the greatest joy, Your Majesty for such a *wise measure* (acertada providencia).

The legislature (diputacion) which he represents, as well as every one of its individual members, have the honor of laying before Your Imperial Majesty, with all due respect and moderation, their assurances of complete obedience and love, as their legitimate sovèreign, to whom only, and to whose dynasty, they have sworn allegiance. May the Lord of Hosts preserve the important life of Your Imperial Majesty for the protection and consolation of all South America and particularly of the Province of Honduras. Provincial legislature (disputacion) of Comayagua, January 9, 1823. Sir: At the imperial feet of Your Majesty. Juan Garrigo, Juan Jose Montes, Joaquin Estrado, Jose Calixto de Valenzuela, Santos Bardales, deputy secretary.

ANNEX NUMBER 3.

GUATEMALA.

LETTER NUMBER 220 OF THE PRESIDENT OF GUATEMALA TO THE SECRETARY OF STATE AND OF THE GENERAL TREASURY OFFICE (DESPACHO UNIVERSAL DE HACIENDA).

[General archives of the Indies, Seville, shelf 100, box 4, file 8.]

It notifies the doubt which has arisen as to who must issue the title warrants to the lands to be parcelled out in Truxillo, citing reasons and quotations of royal orders and praying that it may be declared that the said port and its colony must continue to be absolutely under the Province and independent of the treasurer (intendente) of Comayagua.

GUATEMALA, *February 3, 1803.*

Excellency, the President of Guatemala, November 20.

In the enclosed proceedings it has been disputed between the attorney general (ministerio fiscal) and my ordinary legal adviser

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(asesor), *whether the title warrants to lands to be parcelled out in the colonies of Truxillo in accordance with the rules and regulations drawn by me and approved in the superior board must be issued by this delegated superintendency, or by the treasury office (intendencia) of Comayagua.*

The question is not of so little import as it would seem at first sight, *inasmuch as upon this question depends the further one of determining whether the port and colony of Truxillo must continue or not immediately under this command, as they have been since their establishment.*

The attorney general (ministerio fiscal) has appealed to article 81 of the ordinance of "Intendentes," and to two royal decrees, which gave to the attorney general of Comayagua, jurisdiction in the first instance over two cases of contraband and fraud committed in the aforesaid port.

My legal advisor has on the other hand based his opinions on different royal orders cited by him, all of which have been directly communicated to this Presidency, some before, and others after, the existence of a treasurer (intendente) in Comayagua.

For greater clarity I enclose herewith copies of the said royal orders, numbered 1 to 10. From all of them it is evident that the establishment of Trugillo, since His Majesty resolved to form it in 1783, and everything related to Mosquito Coast, a town in which it was decided to place a customhouse, police, and government, it has been a single and only object exclusively in charge of this Presidency.

The same opinion is corroborated by the representations, reports, and consultations which have been addressed by my predecessors to His Majesty concerning the affairs and occurrences in the said coast and its settlement, because besides that of Truxillo and Roatan there were those of Rio Tinto and Cape of Gracias a Dios which were afterwards abandoned. A collection of these several documents would be too bulky and in the present case it would not offer a greater proof than that made out by the simple readings of the said royal orders. Suffice it to say that from the beginning, all such things as have connection with the command in its different branches of justice, politica, treasury, and war, were dealt with as must necessarily be the case, and in none of them is mentioned the treasurer (intendente) of Comayagua except as a delegate of the Presidency for the carrying out of some operations, which sometimes it was also the customs to entrust to some other official or decorated person.

Since the year 1790, by virtue of the royal order number 1, this command has been understood to belong to the ministry of war as regard all the affairs of the said settlements. The occurrences have been various and complicated. My predecessors have, as to all of them, provided as they saw fit and proper, notifying His Majesty

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of their doings; the royal resolutions have been notified to them, and they have been charged with their execution and fulfillment; all of which I could prove by enclosing herewith another portion of copies and testimonies if it should be deemed necessary.

No treasurer (intendente) of Comayagua had ever attempted to interfere with the affairs of the Mosquito Coast and settle them himself until the present Colonel Don Ramon Anguiano, who disputed to my immediate predecessor, Don Jose Domas, the right to assume jurisdiction over the two aforesaid cases of contraband. And it is even to be noted that he only attempted to exercise jurisdiction in Trugillo over that class of cases, and that he had no further object in view than the settlement and government of the colony.

My said predecessor made on this point very bad use of his powers, as I have seen by the communications he had with the superior board, and by the inquiries made by His Majesty. A thing which was purely a matter of fact was attempted to be defended by frivolous arguments, thereby consuming a great deal of time and paper, which gave rise to favors and animosities. The said royal orders, numbered 1 to 10, were not taken into consideration, whether because they could not be found in the confusion in which the archives of this secretaryship was, or whether because no one took pains in finding them. The result of this, in my estimation, was that the royal decisions, in the two aforesaid cases, were in favor of the treasurer (intendente) because of the general rule given in the ordinance of these justices, without considering the peculiar circumstances of the case and the different rule governing said matters.

The truth is that when I took command I found everything pertaining to the Mosquito Coast in the greatest disorder; it being the only settlement in Trugillo which was being maintained at a stupendous cost to the royal treasury, without having yielded the least profit after immense sums of money had been invested therein.

Believing that one of my first duties was to stop all abuses in said coast, I endeavored at once to draw up the regulations for the sowing and apportionment of lands, which I reported to your excellency under No. 72. Then I undertook to make a reduction of the expenses, to arrange for vouchers, and to put a stop to the arbitrariness of the officials in that settlement who had been drawing against the treasury funds without regard to any just measure in the use of their subaltern powers; all of which I also reported under reserved index No. 32, the superior board having done so on the strength of my plan which it had approved. And it is to be noted that prior to this time, and in spite of the fact that these abuses were more manifest, the treasurer had not even taken the

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least step in regard thereto; and now that I have stirred this matter, he has calmly looked upon my proceedings without claiming that his powers in the premises are being usurped.

The resolutions I am attending to demand the continuation of many others which I find myself compelled to issue each mail, clearing up impertinent or insidious doubts, in order to carry out the strict system of wise economy which I have planned. But if the treasurer (intendente) of Comayagua should be granted jurisdiction and authority over these and similar matters, my plan would receive a deadly blow; the distance and the roundabout ways to Comayagua would cause the remedy for so many evils to arrive late when granted; or they would find a way to elude the wisest resolutions of the superior authority; outside of the fact that, in many cases, they would not know when to apply to the latter and when to the treasury.

If it is believed that the superior board meets these difficulties and the others which follow therefrom, in my opinion such belief is erroneous. The knowledge I have of these matters causes me to think in this manner. Ever since Trugillo was established said board has been in existence and those disorders had been left to continue for over fourteen years. Their cause could not fail to be known, but they did not apply any remedy thereto, and if they thought of any, they were lost in the labyrinth of forensic proceedings and among accountants, prosecutors, relators, and clerks before they were put to execution. A zealous and fairly enlightened chief understands that if he is given freedom of action he can do a good deal of good in any country; but this will never be attained with a collegiate tribunal whose members, collectively, have no immediate personal liability; who the more difficult the matters are which they are to ventilate, with the more repugnance and lack of interest they convene, and who, as soon as the session is over, they never give a thought to the question, nor are they any further concerned with its success or failure, because each of them individually considers that that is not to increase his merits for his promotion or to further the attainment of his aims.

Finally, Truxillo is directly dependent from this general captaincy as to all military matters, which was never disputed: All, or almost all, that happens there drifts to the military branch or is connected thereto. It would be monstrous to divide these matters, venturing the tactfulness of the revolutions, precisely at such a time when steps are being taken to place that colony on a stable footing to attain which it is so necessary to have a unity of action and command in everything that is to be done.

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As regards the particular point of this matter, Your Excellency will please notice that the regulations in question having emanated from me it would be very unsuitable to have one judge take jurisdiction in the apportionment of lands, and another in the issuing of titles thereto. The treasurer has not stirred this matter for his own interest, and I think that he would be very little interested in having it determined in his favor, because it would only increase his work. The only thing on which he has imposed his jurisdiction is as to the aforesaid matters of contraband, on account of the pecuniary interest which corresponds to the judge of first instance therein. Knowing that this was the basis for all his claims in the time of my predecessor, I left him from the beginning with full liberty to have and determine such matters. Whatsoever cases of this kind have happened, even if reported to me from Trugillo, I have sent them to his court, wherewith I have no knowledge that in my time they should have taken any new steps toward his jurisdiction not toward exercising any other jurisdictional authority over that colony.

In view of the foregoing statements I hope that Your Excellency, being convinced that I am not animated by any personal interest, but only by the wish for a better service, *will incline the mind of His Majesty to make the convenient declaration to the effect that I must continue to exercise jurisdiction over all matters relative to the Mosquito Coast, the colony of Trugillo and its dependencies, with absolute exclusion of the treasurer (intendente) of Comayagua*, without prejudice to apply to him for information and for his opinion on such matters as may be necessary to have it, or as it may be most suitable to the wishes of the sovereign.

May God keep Your Excellency many years. Guatemala, February 8, 1803.

Most Excellent Sir,

ANTONIO GONZALEZ (Flourish).

To HIS EXCELLENCY THE SECRETARY OF STATE AND OF THE UNIVERSAL OFFICE OF THE TREASURY.

(At the head of the document as a marginal note, it reads as follows:)

It gives an account, with proofs, of the doubts which have arisen as to who should issue the title deeds to the lands apportioned in Trugillo. And for the various reasons given and the copies of the royal orders attached thereto he asks that that port and its colony be declared to continue to depend as to all matters directly from the Presidency just as it has been from the beginning (as proved by said royal orders), with absolute exclusion of the treasurer of Comayagua.

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DUPLICATE.

(Royal orders, No. 1.)

I have read to the King Your Excellency's letter Number 382, dated April 17 last, and having considered the plan regarding Port Trujillo submitted therewith; His Majesty agrees with all Your Excellency proposes. Therefore, it is his royal wish that Your Excellency shall forthwith issue all possible necessary orders to fortify the port, placing and maintaining therein the competent force to defend it from any attempt of the enemies; and that Your Excellency shall establish in the meantime a small town with the people of that kingdom, while in order to complete the plan some families can be sent from Spain and the Canary Islands. I notify Your Excellency thereof, that said wish may be carried out. God keep Your Excellency many years. San Ildefonso, June 30, 1782. Galvez. To the President of Guatemala. By letter received from the Viceroy of Mexico, Don Matias Galvez, the King has learned with great satisfaction that the English have left the coast and settlement of Rio Tinto and withdrawn, as is believed, to Cape Gracias de Dios. As a result of these news His Majesty has resolved that Your Excellency shall at once proceed to the work of reconstruction of the city of Trujillo, and to occupy the island of Roatan with a small detachment as proposed by that chief after he was conquered; said chief being advised on this date to assist Your Excellency in whatever may be needed to carry out Your Excellency's orders; it being understood that His Majesty reserves the right to appoint a Governor or commandant for the port of Trujillo and Roatan who must depend directly from Your Excellency. God keep Your Excellency many years. Madrid, December 6, 1783. Galvez. To the President of Guatemala.

By order of the King, and under date of September 24, I have to advise Your Excellency, among other things, that His Majesty has resolved that four Spanish townships be established, all of them well provided for and defended, in Rio Tinto, Cape Gracias a Dios, Blewfields, and the mouth of San Juan River, and that it is the royal wish that Your Excellency shall begin the formation of these settlements with people of that kingdom and under the convenient precautions, it being understood that in view of what Your Excellency may report and suggest in regard to this matter, some families shall be sent from the Peninsula or Canary Islands to increase and reinforce them. I now advise Your Excellency that His Majesty has resolved with the unanimous assent of the State board that for this purpose one hundred and fifty poor families of

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laborers and artisans from Galicia and Asturias and sixty from the Canary Islands be assembled and sent to Your Excellency within the briefest time possible; it being understood that it is His Majesty's intention that the aforesaid towns, in the island of Roatan, and the other places of the coast which it may be convenient for us to occupy, the families from that kingdom and those originating from this, be united and mingled so as to help one another and all of them engage in work with honest emulation. By royal order I notify it to Your Excellency that Your Excellency may be duly advised and act accordingly; it being understood that I shall advise the chief of Otabana in the event that some of said families should stop at that place on account of not being able to go directly to any of the ports of that Kingdom. God keep Your Excellency many years. El Pardo, January 23, 1787. Sonora. To the President of Guatemala.

By the reserved correspondence of Your Excellency under date of July 15 and August 15, numbers 69 and 70, and by the copies attached thereto, the King has learned of the incidents which have lately occurred on the Mosquito Coast and of that which took place in Blewfield between the Colonel Juan Nepomuceno de Quesada and the Englishman, Robert Hodgson. In view of this, His Majesty has resolved that Your Excellency shall proceed cautiously in this matter until Your Excellency hears from the Archbishop Viceroy of Santa Fe (whom it is regular that Your Excellency should have written) about the authority Hodgson claims to have been given by this prelate over said settlement and the coast which runs southward from it; and is necessary that Your Excellency should act in accordance with him on the matter of establishing a detachment and town in the said port of Blewfields, this being a measure which His Majesty believes to be extremely necessary. For this purpose I send him the aforesaid two letters of Your Excellency in order that, after reading them, he may suggest to Your Excellency the means which he may deem convenient to settle the matter. God keep Your Excellency many years. El Pardo, January 20, 1788. Valdez. To the President of Guatemala.

By the letter of Your Excellency of August 12, last, Number 850, the King has learned of the arrival in Trujillo of the sixty families from the Canary Islands for the settlements of the Mosquito Coast, and of the manner in which Your Excellency has helped them, and of the clothes and supplies Your Excellency has given them and the other orders issued in regard to the matter. God keep Your Excellency many years. El Pardo, January 20, 1788. Valdez. To the President of Guatemala.

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On this date I, by order of the King have notified the treasurer (intendente) of Habana not to spare the supplies you may ask him for the purposes related with the Mosquito Coast, warning him to take care and see that the goods be of first quality. I advise you of this in answer to your two letters of January 1st and March 31st, last, numbers 35 and 83. God keep Your Excellency many years. San Ildefonso, August 1st, 1788. Valdes. To the President of Guatemala.

By Your Excellency's three letters of September 1st, October 4th, and November 14th, numbers 873, 890 and 12, the King has been advised of the arrival of Galician families to that coast on the frigates Carlota, Infante don Fernando and Nuestra Senora de la Lapa, and of the orders given by Your Excellency for their maintenance, which are approved by His Majesty. God keep Your Excellency many years. Madrid, August 20, 1789. Valdes. To the President of Guatemala.

By the two letters of Your Excellency, dated May 4 and October 4 of last year, numbers 101 and 176, His Majesty has been advised of the sick and dead among the European settlers until that date, and of having finally established on August 18th, of last year the settlement of Cape Gracias a Dios, with great contentment of the Indians. God keep Your Excellency many years. Madrid, August 2d, 1789. Valdes. To the President of Guatemala.

The King approves your having asked the Viceroy of Mexico for three hundred thousand pesos to meet the needs and expenses occasioned by the evacuation of the English from the Mosquito Coast and by the settlement of families therein, which Your Excellency reported by letter dated December 31st, last, number 30. God keep Your Excellency many years. Madrid, August 21, 1789. Valdes. To the President of Guatemala.

The correspondence of Your Excellency with my predecessor, Senor Bailio Don Antonio Valdes, on matters relating to the Indies and the settlements of the Mosquito Coast, must be continued with this Ministry of War of the Indies in my charge. Your Excellency is hereby notified thereof by Royal Order that Your Excellency may be properly advised and act accordingly. God keep Your Excellency many years. Aranjuez, May 2nd, 1790. The Count of Campo Alange. To the President of Guatemala.

The foregoing documents are a true copy of their originals. Guatemala, February 8, 1803.

ALEXANDRO RAMIREZ (Flourish).

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A true copy of the original which is kept in this archive at shelf 100, box 2, file 8.

THE SECRETARY.
(Signed) JUAN LAFITA Y DIEZ.

O. K.
The CHIEF,
(Signed) P. TORRES LANZAS.

Seal of the central archives of the Indies. There is a stamp of the 11th class, and one peseta.

ANNEX 4.

GUATEMALA.

1806.

COMMUNICATION OF THE ROYAL DECREE OF NOVEMBER 13, 1806, TO THE PRESIDENT OF GUATEMALA PROVIDING THAT HE HAS ABSOLUTE JURISDICTION OVER ALL THE AFFAIRS OF THE COLONY OF TRUXILLO AND OTHER MILITARY TOWNS OF THE MOSQUITO COAST.

SAN LORENZO, *November 13, 1806.*

[General Archives of Indies, Sevilla, shelf 102, box 4, file 11.]

War Excellency:

To the Captain General of Guatemala I say under this date as follows:

The King being informed of the letters of Your Excellency of March 8, 1804 (Numbers 416 and 417), and of the documents attached thereto, communicating the creation of two ordinary mayors (alcaldes) and a general solicitor within the colony of Truxillo; and of the question raised by Colonel Don Ramon Anguiano, governor treasurer of Comayagua, who claims to exercise the powers of treasurer according to the ordinance of New Spain in the settlements of the Mosquito Coast, and to be the only chief therein, entirely independent in the four branches of justice, politica, treasury, and war, of which the Presidents of Guatemala have taken cognizance in the new colonies; *His Majesty has resolved that Your Excellency is the one who must have exclusive and absolute cognizance of all cases arising in the colony of Truxillo and other military posts of the Mosquito Coast, concerning the four branches aforesaid, in compliance with the royal orders issued since the year 1872, which authorize him to occupy, defend, and populate the said coast,* until this object being accomplished in whole or in part, His Majesty shall deem proper to change the present system and therefore Your Excellency did well and in the exercise of his powers proceed to the election of the alcaldes and solicitor, in spite of the power which the treasurer arrogates to himself founded on the ordinance of these offices, because besides its general character and inadaptability to a private commission, the said ordinance has not been enforced in the said coast since its dispatch to Guatemala for compliance with its provisions as far as adaptable.

By royal order I communicate it to Your Excellency in accordance with what Your Excellency stated to me on the 20th of August of last year, and in order that the ministry under your charge shall issue such orders as shall be proper for its fulfillment.

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May God protect Your Excellency many years. San Lorenzo, November 13, 1806.

JOSEF CABALLERO (Flourish).

Senor DON MIGUEL CAYETANO SOLER.

A true copy from the original kept in this archive, shelf 102, box 4, file 11.

SEVILLE, *November 26, 1917.*

THE SECRETARY.

Countersigned, The Chief.

(Signed) JUAN LAFITA Y DIEZ.

(Signed) P. TORRES LANZAS.

Here is the seal of the general archives of Indies, and a stamp of class 11, and a peseta.

ANNEX 5.

1745 HONDURAS.

[General archives of the Indies, Seville, shelf 65, box 8, file 1.]

TITLE GIVEN TO DON JUAN VERA WHEN HE WAS APPOINTED GOVERNOR OF HONDURAS UP TO CAPE GRACIAS A DIOS.

MADRID, *August 23, 1745.*

Don Phelipe, by the grace of God King of Castille de Leon, of Aragon, of the two Sicilies of Jerusalem, of Navarra, of Granada, of Toledo, of Valencia, of Cordova, of Corcega, of Murcia, of Jaen de los Algarves, of Algiers, of Gibraltar, of the Canary Islands, of the East and West Indies, of the islands and mainland of the ocean, Archduke of Austria, Duke of Burgundy, of Bravante and of Milan, Earl of Hapsburg, Flanders, Tyrol, and Barcelona, Lord of Biscay and of Molina, etc.: Whereas it is convenient to my service, and on account of the present war, to appoint a person in whom shall concur the circumstances of merit, military discipline and distinguished good behavior, to occupy the office of governor and commanding general of the Province of Honduras; and being satisfied that you, the colonel of infantry, Don Juan Vera, have proved to possess all these qualities by the services you have rendered in the offices you have held from the year 1714 in the regiment of my guards of Spanish Infantry where you served until the year 1722, and where, having the rank of second lieutenant, I promoted you to the rank of lieutenant colonel and afterwards gave you the government of the island of Margarita, where, as well as in the Province of Santa Marta, you have served with disinterestedness, zeal and good conduct, as shown by the report of the investigation of your conduct as such governor held after your term of office and brought to my notice by Don Sebastian Eslava, the viceroy of the

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New Kingdom of Granada, I have chosen and appointed, as I hereby choose and appoint you, governor and commanding general of the Province of Honduras, for you to serve as such as long as it may be my pleasure, with all the powers, jurisdiction and authority as vested in all the other governors of that Province in accordance with the provisions contained in my laws, decrees, and orders; and deeming it convenient to my service that you should have the proper authorization for whatever might be necessary to do, I have resolved also to appoint you (as I do hereby appoint you) *commanding general of my armies of the aforesaid Province of Honduras and of all those comprised in the whole Bishopric of Comayagua in the division and district of the Alcadia Mayor of Tegucigalpa, and of all the territories and coasts from the point where the jurisdiction of the Governor and captain general of the Province of Yucatan ends, up to Cape Gracias a Dios; and likewise I appoint you commanding general of all the aforesaid Provinces and Territories, for you to do whatever may be convenient, and to prevent illicit trade therein, for all of which, and to enable you also to call, summon and convene all the warriors, and lead and command them and appoint corporals and officers, visit and repair the fortresses, construct new ones (if they are necessary for the security of those coasts), pass judgment upon court martial cases according to the ordinances and to do whatever may seem convenient to you for the defense of those dominions, and to prevent and punish illicit trade therein, I confer upon you full power and give you the necessary jurisdiction.* Therefore I command the present governor and commanding general of the Province of Honduras, the corporation, the chief justice and the regiment of the city of Comayagua and any other justices and judges who may afterwards be summoned by you under this my royal title after having taken the oath you must take before the Governor or the corporation of the said city of Comayagua, to give and place you in possession of the Government and general commandership of that Province; and likewise I command the governing officers of the Real de Minas of Tegucigalpa and all grand marshals, sergeant mayors, captains, lieutenants, second lieutenants, and privates, and the wardens and lords of the castles and fortresses of the aforesaid Provinces and territories, to recognize you as such *commanding general of my armies therein*, and to obey you and execute unquestioningly, and without contradiction of any kind, all orders which you may give them either in writing or verbally, and to bestow and cause to be bestowed upon you all the honors, preeminences, exemptions and privileges which are due to you and must be given you as such commanding general of my armies, and to carry out what is necessary to prevent illicit trade. *And I give*

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you full discretion on all military matters and in all other matters relative to the vigilance over and prevention of illicit trade or pertaining to any other jurisdiction, and to this effect I hereby repeal any laws, decrees and orders which might provide anything to the contrary, said laws, orders and decrees to remain in force as to all other matters; but I admonish you that in whatever pertains to civil, criminal or administrative cases of the Province of Honduras, and the city of Comayagua, you shall introduce no changes, because the procedure in such matters shall be as heretofore granting all appeals which should be interposed against the judgments which you or your deputies might render, before the Supreme Court of Guatemala. And likewise, I command you not to interfere with the political and civil government of the alcaldia mayor of Tegucigalpa, nor with any other gubernatorial district of the coast which should have a governor or governing officer, because the jurisdiction thereon must continue to be vested absolutely, as heretofore, in the governor or governing officer thereof; and likewise I admonish you not to make, and you shall not make, any changes in the administration of my royal exchequer, since as to all matters pertaining thereto you must comply with the provisions contained in the laws. And I declare that while in this office you shall receive a yearly compensation of six thousand pesos which shall include the salary which your predecessors have had heretofore and has been assigned to that office, and you shall be paid by virtue of this my royal title and against your receipts, by the officials of my royal treasury in the city of Comayagua; said salary to run from the day you should prove to have arrived at the port of Havana. And likewise I declare that you shall not pay one single cent for the half annuity tax because you are relieved therefrom, and this title shall be registered by the officials of my royal treasury in the house of the city of Comayagua; it being understood that, should they deem it convenient to do so, my council of the Indies may issue any orders, instructions or decrees which should be communicated to you by that city. Given at San Ildefonso this twenty-third day of August, one thousand seven hundred and forty-five. I the King. Don Cenon de Somoderville. Order appointing the colonel of infantry, Don Juan de Vera, governor and commanding general of the Province of Honduras and of the city of Comayagua, and for other things stated therein. Portfolio. Copy of the title of governor of the Province of Honduras, for Colonel Don Juan de Vera, issued by the county seat the 23rd day of August, 1745. Number 18. I certify that the above is a true copy of its original kept in the archives, shelf 65, drawer 3, file No. 1. Seville, November 26, 1917. The Secretary, Juan Lafita y Diaz. O. K., The Chief, P. Torres Lanzas.

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ANNEX NUMBER 6.

ROYAL ORDER ISSUED TO THE GOVERNOR OF COMAYAGUA AND HONDURAS, DON JUAN DE VERA, PLACING HIM FOR ALL MILITARY MATTERS, UNDER THE ORDERS OF THE CAPTAIN GENERAL OF GUATEMALA.

"The King.

"Don Juan de Vera, colonel of my armies, governor of the Province of Honduras and of the city of Comayagua, and commanding general of the armies thereof, of the territory of the Alcaldia Mayor of Tegucigalpa, and of the other territories comprised between the point where the jurisdiction of the governor of Yucatan ends and Cape Gracias a Dios. When the King, my Lord and Father (may God keep him in his glory) conferred upon you the title to these offices on August 23, 1745, he deemed it convenient to state therein, as well as in the instructions and the other papers issued to you for the better fulfillment of your mission, that as to all military matters and as to the vigilance over and prevention of illicit trade you were to exercise your full discretion and act independently from any other jurisdiction, and this resolution was notified to all persons concerned so that being advised thereof they should let you exercise freely all your powers, without hindering or opposing your orders, and cooperate with you in carrying them out according to the instructions given you therein. In doing so, His Majesty had kept in mind the fact that the President of Guatemala, being merely a man of letters, and all military operations being, therefore, foreign to his profession, my service would be seriously impaired were you to be subordinated to him as to these matters, just as you should be, as all your worthy predecessors were, in all those pertaining to civil, criminal and gubernative cases; because if such were the case there could be no facilities to provide and arrange for the plans and schemes to attack with opportunity the settlements of the enemies and to safeguard the coast regions of the Provinces which fall under your jurisdiction. And I, having now decided that the Government of the Kingdom of Guatemala and the presidency of the supreme court seated at the city of Santiago should be in charge of a military officer, whose conduct, experience and capacity should insure the restoration not only of the aforesaid supreme court, for which His Majesty (may God keep him in His glory) had already issued some decrees, but also for the restoration of the aforesaid Province of the whole of that Kingdom, so that the natives thereof shall experience the effects of my paternal love, and my royal treasure shall, at the same time, derive the necessary benefits in order to attend with less difficulties to their relief, having taken into con-

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sideration that all these qualities are to be found in the field marshall of my armies, Don Francisco Cagigal de la Vega, governor and war captain of the city and district of Santiago of Cuba, I have resolved to appoint him governor and captain general of the Provinces of the Kingdom of Guatemala and President of the Supreme Court seated at the city of Santiago, with as full and absolute jurisdiction, privileges, and exemptions as belong to him as such, without any exception or limitation. Therefore, I command you that as soon as you shall receive this my royal decree signed by my royal hand and countersigned by my undersigned Secretary of State and of the universal office of the Indies, to recognize and consider the said Don Francisco Cagigal de la Vega as such governor and captain general of the Provinces of the Kingdom of Guatemala, and as president of the supreme court of the city of Santiago, obeying him and respecting him, executing with absolute subordination and dependence whatever he might command in regard to my service, and to account to him for whatever you shall do in carrying out your missions, and reporting to him all the plans and ideas which you might have for carrying them out, and asking for his approval or judgment before putting them into practice (unless on account of the urgency of the undertaking it should be convenient not to wait for such approval) and to suggest to him also such measures which you might think necessary for him to apply on his part. And I advise you most particularly to act as to all these matters in the best harmony and accord, the consideration of the matters relating to my service and to the good of my subjects being paramount to all others. And you shall proceed as to all matters connected with the illicit trade with the same powers and jurisdiction as you have had heretofore as Governor, by virtue of the laws and orders issued by the King my Lord, and as to all Royal, official, and other matters, subordinated to and in cooperation with Cagigal, since such is my will."

On the back it reads: "Written to Meredia in the same terms."

1747. ROYAL ORDER TO DON FRANCISCO CAGIGAL, CAPTAIN GENERAL ELECT OF GUATEMALA, WHEREBY HE IS INSTRUCTED AS TO HOW THE GOVERNORS OF NICARAGUA AND HONDURAS, DON ALONSO THOMAS HEREDIA AND DON JUAN VERA, ARE TO BE SUBORDINATED TO HIM.

MADRID, *January 3.*

When the King appointed Brigadier Don Alonso de Heredia governor of the Province of Nicaragua, and Colonel Don Juan de Vera governor of Honduras, he, taking into consideration the fact that the governor and captain general of the Kingdom of Guatemala,

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being merely a man of letters, could hardly cooperate in matters pertaining to military operations, gave them absolute independence from said governor as to the two main points of preventing illicit trade along the whole coast to which he had extended the jurisdiction of each and of annoying the English and their friends, the Zambo Mosquito Indians in their settlements.

His Majesty, having now appointed Your Excellency to take charge of said Government with all the necessary ample powers, has had in mind the importance of having the two aforesaid officials act subordinately to Your Excellency not only as to the two main points of their mission, but as to all other matters related thereto, not only because that is due to Your Excellency's character and rank and to the very offices now conferred upon Your Excellency, but also because, besides being conducive to the harmony and best direction in the management thereof, Your Excellency's distinguished good behavior in matters pertaining to His Majesty's service, military expertness and experience, assure the performance of His Majesty's desires.

His Majesty is also satisfied of the zeal and other qualities of Don Alonso de Heredia and Don Juan de Vera, which made them deserving of the memory of His Majesty (may God keep him in His glory) for offices of so much trust. And for this reason, and in order that in case it is convenient for the better and safer management of some of the matters entrusted to their care, they may act alone without the limitation prescribed to them, which is a consequence of the absolute subordination to Your Excellency imposed on them, as Your Excellency will see by the enclosed royal decrees signed by the royal hand of His Majesty, which you will forward to each one of them respectively. His Majesty has ordered me to caution Your Excellency, confidentially, that in spite of the order by which they must report to Your Excellency whatever they should do, and to adjust their orders to those which Your Excellency should communicate to them, they should try as far as possible to make use of their authority and powers, so that, without failing to have the exact knowledge and notice of the matters on hand, plans and undertakings proposed and put into practice, these officials should understand the satisfaction and trust which His Majesty has in their conduct, so that they may be thereby more stimulated and shall apply themselves better to the fulfillment of their mission. And at the same time I have been directed to say, also, that their subordination to Your Excellency has no other purpose than the convenience of the service, and its condition that of being an indispensable requisite due to Your Excellency's rank and to the general command of a Kingdom which has jurisdiction over the Provinces of the command.

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His Majesty confides in your prudence and trusts that Your Excellency will proceed in all these matters with proper wisdom and reflection, so as to avoid all inconvenience and to prevent the slightest impairment to the service. And His Majesty orders Your Excellency to report all your acts and whatever Your Excellency might consider worthy of bringing to the royal notice. May God preserve Your Excellency.

S. Don Francisco Cagigal de la Vega.

Madrid, *January 3, 1747.*

There is another order bearing the same date, commanding you to keep close watch on the acts of Don Alonso Tomas de Heredia and to get information with the greatest secrecy as to the manner in which he is carrying out the missions entrusted to him as governor of Nicaragua and to report on it through the same channel.

(By reason of the fact that this appointment never took effect, these orders, and others, were later transferred to the governor elect, Don Jose de Araujo y Rio.)

Some news has been received about the conduct of Brigadier General don Alonso de Heredia, which does not conform with the opinion had of him by the reports received before he was appointed governor of the Province of Nicaragua. The King has ordered me to bring this fact to Your Excellency's knowledge so that Your Excellency shall keep close watch on the actions of this official, and shall cautiously adopt such secret measures as Your Excellency may deem most adequate to be informed of the manner in which he is carrying out the missions entrusted to him, and then to report in the same manner and through the same channel as soon as there is occasion to do so, endeavoring to get all this information from reliable, authorized and Christian people. And I give Your Excellency notice hereof, for the faithful performance thereof, by order of His Majesty. May God, etc. Madrid, January 3, 1747. Senor don Francisco Cagigal.

The above are faithful copies of their respective originals kept in the archives of the Indies.

Seville, *February 22, 1909.*

The Chief of the Archives.

(Sgd) Pedro Torres Lanzas.

Stamp of class 10 and 2 pesetas. Seal of the office.

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ANNEX NUMBER 7.

REPRESENTATION OF THE CONSTITUTIONAL SOLICITOR GENERAL OF THE MUNICIPALITY OF COMAYAGUA, DATED OCTOBER 16, 1820, WHICH APPEARS ON THE RECORD OF THE PROCEEDINGS FOR THE ESTABLISHMENT IN THE PROVINCE OF HONDURAS OF A PROVINCIAL BOARD IN COMPLIANCE WITH ARTICLE 325 OF THE SPANISH CONSTITUTION.

The constitutional solicitor general of this noble and loyal municipality, mindful of the sacred obligation which devolves upon him by reason of his office, and mindful also of the clamor of all the inhabitants of this vast Province of Honduras, finds himself in the dire and urgent necessity of requesting Your Excellency to make appropriate representation to His Majesty and the sovereign courts, soliciting the establishment in this capital, of a provincial board which may attend to the development of the departments of agriculture, mines, and commerce, with which our land is so abundant and rich. The undersigned is aware of the fact that Your Excellency, knowing the imperative necessity of establishing the said provincial board, by virtue of my first representation has appealed for this purpose to the provisional or preparatory board of Guatemala; I beg to say, however, that we must hope for nothing favorable, because the interests of the said capital are diametrically opposed to those of the provinces, and more particularly to those of Honduras, which they have tried to destroy by all possible means suggested by malice, intrigue, and greed. These truths are not merely the expression of an opinion by the solicitor general; they are proclaimed by the very notoriety of the facts. Witness that scandalous Chalhuapa fair, where, for more than a century and a half, they compelled us to take our cattle, and where an apprizer appointed by them, as their friend, not only at his discretion fixed in detail the price at which they must sell, but also designated the persons to whom we had to deliver the cattle, and this disorder, this greed, this despotism, and this horrible sacrifice were so great that even when a vendor had a purchaser who would pay him ten dollars for his cattle he was obliged and compelled to sell it for four, which was the valuation set on it by the apprizer. Witness the ports of Omoa and Trujillo, which they kept closed for more than a century in order that we should in this way be compelled to buy from Guatemala everything we needed for our commerce and even to clothe our families. Witness these same ports which, in spite of the fact that the sovereign "Cortes" and even our beloved Monarch recently issued two royal orders placing them under this government, they have refused to comply with them in Guatemala (without any other reason than the long distance from the Crown and

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their detestable greed) in spite of the fact that the first is only sixty leagues from Comayagua and the second seventy-two, while from Guatemala the first is two hundred and ten leagues and the second two hundred and twenty-two. Witness, lastly among many other cases to which I might refer, the one which is happening at the present time, when, without any better reason than their private commercial aims and the purpose of disheartening this unhappy Province, the "Director General de Tabacos" wishes to wrestle from our hands the factory situated in this city since its establishment and take it to the town of Tegucigalpa, to the very great damage of the national treasure and its very revenues, and by reason of this scandalous thing we have seen this loyal people become excited and reach the point of a popular outbreak when they learned of the arrival of the order for the said transfer, and if they remained tranquil and peaceful it was only because of the prudence and moderation of Your Excellency and because of the great patriotism of our worthy chief, Senor don Jose Gregorio Tinoco y Contreras, who immediately commanded obedience and noncompliance with the said order. The Province of Comayagua, gentlemen, does not deserve any such depressing treatment; this Province has been at all times worthy of the greatest consideration for her famous loyalty and love for the just cause. Public witness of this truth is the fact that this municipality was invited by an anonymous person from Guatemala in the year eighteen hundred and eleven to join a general uprising which should bring about her independence; this was not only refused with the greatest indignation, but her worthy representatives ordered (as was done) the despatch of a special courier to the captain general with the infernal paper in order that His Excellency, by discovering the author, might pull out by the roots the fatal corruption which was menacing all the Kingdom, which was done, the most notable thing being that although all the other municipalities had been called together, only that of Honduras took this step, and the others if they did not accept, at least kept it secret within their breasts. The troops of Comayagua and its Province, in the year eighteen hundred and twelve, when the Provinces of Leon, San Salvador, and Granada raised the detestable cry of rebellion, fired with the sacred sentiment of loyalty, started against those places, and, after a year of constant hardships and sacrifices, compelled them to maintain order and to recognize the legitimate authorities, and finally left the said places in a state of quiet and tranquility. And the solicitor asks: "What was the reward and recompense given to these troops and their worthy leaders, whose names ought to be engraved in gold equally with those well deserving of the Fatherland?" None. And what was the cause? The infernal

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opposition of the Guatemalans against the inhabitants of Honduras. Comayagua, gentlemen, has from east to west two hundred and ten leagues, and from north to south one hundred and fourteen; within her jurisdiction are the ports of Omoa, Trujillo, Triunfo de la Cruz, and Puerto de Sol on the north; on the south, San Bernardo, La Baraja, and some smaller ones; her products are the most admirable of the universe because among them is found every kind of exquisite wood known, excellent and abundant balsams, gums, vanilla, sarsaparilla, logwood, mulberrywood, sassafras, black pepper, cochinean, saffron, bastard saffron, coffee, cocoabeans, rice, corn, black wax, annatto, wheat, senna leaves, hippecac, cinchona, dorstenia, sage, talc, tes, ginger, cotton, cassia fistula, tortoise shell, coculmeca, popal, hides, raw and cured; sheep wool, leche de Maria and Mechoacan, deer and tiger furs, agave, mescal, wild silk, tobacco, the excellent stone called opal, a considerable multitude of cattle, mules, and horses; indigo blue, and, finally, the rich and numerous gold, silver, copper, iron and lead mines which excel in legal standard and abundance all other mines known in the universe, and which, if they do not produce coin enough to make all Europe rich, do not do so because, instead of finding in Guatemala the necessary assistance, we encounter only destructive orders and trammels which obstruct everything. Under these solid and incontestable premises, namely, that Guatemala is one hundred and fifty leagues of painful roads from Comayagua; that the extent of this Province comprises nearly the area of a kingdom; that it contains one hundred and eleven thousand four hundred and sixty-six inhabitants and one hundred and ninety-five cities, towns, villages, and hamlets. Is there any one who can doubt for a single instant that we should have, and that there ought to have been already established, a provincial board, a university in Comayagua? I think not. And I believe further that as soon as the sovereign "Cortes" are informed of the reasons and causes above set forth and enumerated they will grant us not only these things but also a territorial court in order to relieve these poor inhabitants of the troublesome and expensive necessity of applying to Guatemala, which many times they do not do for the lack of means for the purpose, and thus must abandon their cause, however just it may be. The creation of this provincial board, far from injuring the national treasury, would increase it by much greater sums, because her true sons, who would compose it, would try to give a rapid and forceful impulse to its abundant and rich mines, overcome the difficulties of exporting the other products of commerce by rendering navigable such rivers as discharge into the Mar del Norte, and others into the Mar del Sur, and finally they would do all in their power to make their Fatherland a flourishing country; and

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while, as has already been shown, instead of being the richest of the universe it is so far the poorest, in time it may be the happiness of the whole of Europe. The conversion of this college seminary into a university is also of the greatest importance, because our young men, whose talents are admirable, will have a place in which to cultivate them, and the nation ought to expect by this means to have citizens who will do honor to the Fatherland. This can also be accomplished without burdening the national treasury. At the present time we have in this college the chairs of Latin, philosophy, and moral theology; it is necessary to establish that of canonical and ordinary law, medicine and surgery, and a third of mineralogy, by reason of the fact that this is the Province where all the mines of this continent are. The personnel of the last three can be supplied by suppressing the doctoral and plenipotentiary canonships, which are not of strict necessity in this cathedral, where there are five dignitaries. The product of these two canonships, according to a quinquennium, amounts to two thousand five hundred and fifty-four pesos, with which each one of the three classes can be endowed at the rate of six hundred pesos per annum, which makes a total of one thousand eight hundred per annum, there being a remainder of seven hundred and fifty-four pesos per annum, which can be applied to the material work of the university—books, instruments, etc., and after this, to enlarge, gradually, other classes. In this way the solicitor can guarantee that in a very few years the Province of Comayagua will be the most opulent and the richest of both Americas. In this the solicitor is of the opinion that, taking into account the obstructions caused by the multitude of insurgents who infest the said Province, we must not hope to obtain too soon the happy results which we expect from the sovereign "Cortes," and for this reason the installation of the provincial board should be proceeded with immediately. A speedy establishment of this board, far from causing injury to the people, will bring invaluable benefits both to the Province and the Nation at large. Article three hundred and twenty-five of our immortal Constitution, which provides that in each Province there shall be a legislature (diputacion) called provincial, shall in this way be complied with. *No one doubts that Comayagua is, since its conquest, such a Province, and Law 15, Book V, Title I of our Indies Recopilacion, sets forth in detail its boundaries, which are the islands of the Guanajas.* You, who are the representatives of the people, are the ones who must look after their happiness, and the time has arrived when we must not persist in the gloomy and dark silence of slavery; we have already arrived at a glorious time when we must raise our voice with freedom and lay before that wise and

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just National Congress, composed of our own brethren, and before a King who is an impartial executor of law, that which is convenient for us, asking what we need to complete our happiness, this is what the solicitor claims; this is what the towns wish, and this is what is asked by the whole Province of Honduras, whose universal pleadings I believe will not go unheeded by you. Comayagua October sixteenth, one thousand eight hundred and twenty. Juan Francisco Clavasquin.

[Translation.]

HONDURAN SPECIAL BOUNDARY MISSION OF THE
UNITED STATES OF AMERICA,
1738 P STREET, *Washington, D. C., July 1, 1918.*

To the Honorable Minister:

In accordance with agreement reached at the last session, of June 25, I have the honor of sending to your excellency a copy of my dúplica referring to the réplica presented at said session by the honorable representative of Guatemala in the matter of the Honduran boundary.

I also send your excellency a copy of the same document, and pray that you have it reach the hands of the said Guatemalan representative upon presentation by him of his dúplica.

I shall have the honor of sending to your excellency, in duplicate, translation of this document when it is finished.

Your excellency will decide when you think best to call the next conference at which to present the documents which have been cited in the briefs, or such documents as it may be deemed advisable to add, with an exposition of the purpose which each of the parties has in view in presenting said documents, so that the stenographer may take note of same, in order that the mediator and the opposing party may thus more readily understand same and the oral discussion which may arise over said documents may also be facilitated.

As the honorable representative of Guatemala offered to suggest a different plan from the one which I had proposed for debating and resolving this matter, the manner of presenting the various documents will, in fact, depend upon the plan adopted; and I trust that I will know said plan before the next meeting.

I am, your excellency, with pleasure your obedient servant,

(Signed) P. BONILLA.

To His Excellency MINISTER BOAZ LONG,
Representing the Government of the United States of America as mediator in the boundary negotiations between Honduras and Guatemala.

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[Translation.]

REPLY (DUPLICA)—THE HONDURAS DELEGATION REFERS TO THE ANSWER (REPLICA) OF THE GUATEMALA DELEGATION ON THE BOUNDARY QUESTION.

I am going to refer to the replica which the representative of Guatemala presented at the meeting of the 25th instant. I shall do so with the utmost possible brevity, because I believe that the system of written pleadings would make this discussion interminable. I shall not treat of those points which I consider more secondary, which I shall reserve, if it should appear advisable, for the oral arguments.

REAL CEDULA (ROYAL RESCRIPT) OF 1563.

Although in my replica (answer) I have already shown to satiety that that document has no value whatever for the many reasons which I then set forth, nevertheless as the Guatemalan representation revolves all of its arguments around this cedula, either to defend its own claim or to combat that of Honduras, and as it maintains that against said rescript, its only document, no other has any value whatever, I want to dwell thereon from a point of view which I had reserved for subsequent discussions.

I maintain that if the royal rescript of September 8, 1563, which defined the boundaries of the Governancy (Gobernacion) of Guatemala had not been abrogated or repealed it would have been no longer in force upon the celebration of the treaties of 1895 and 1914, because its provisions are inconsistent with the provisions of said treaties.

(*a*) That royal rescript marked out a definite line which needs no investigation. Consequently if Guatemala had believed that it was still in force it would have sought a discussion between the chancellaries in order to obtain an agreement on the part of Honduras for the acceptance thereof. Failing to obtain such an agreement there would have remained recourse to arbitration, which probably would not have been obtained because Honduras could not consider as subject to arbitration its dominion over one-fourth of its territory which it has lawfully possessed for nearly four centuries, and a change of nationality of the whole or a part of eleven out of its seventeen departments, containing a population of approximately one-half that of its entire soil. And, failing arbitration, there would remain no other means of solution than that of the force of arms. But at this point it is advisable to reflect that such a war would not have been like all others which have occurred in Central America, which, although they have been between State

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and State, have had the character of real civil wars, inasmuch as the invader had one of the parties as an ally as these parties grasped hands across the frontiers, which would not happen in the case of a war of conquest.

(*b*) The fact that there was appointed in each convention a mixed commission charged with "studying the antecedents, documents, and data that may exist regarding the boundaries between the two Republics"; the fact that it obligates the Governments in arriving at their resolutions to take into account the observations and studies of the same commission, the lines demarked in public documents * * * , the extent of the territory which constituted the ancient Provinces of Honduras and Guatemala at the time of their independence, the provisions of the real ordenanza de intendentes (royal ordinance of intendants) * * * , and in general the maps, plans, etc., which may tend to arrive at the truth * * *; the fact that rules were established for classifying the position and the value which should be given thereto, all show that the Government of Guatemala placed no value on the contents of said royal rescript, because the concrete line which it set out would have made unnecessary all such investigations.

(*c*) This latter is also proved by the stipulation fixing the city of Ocotepeque as the meeting place for organizing the mixed commission in order to commence its study and to enable it to make on the soil of the frontier itself all of the surveys, operations, and works; because Ocotepeque is over 200 miles distant from the mouth of the Ulua and over 300 from the Gulf of Fonseca, these two points being the terminii of the line which Guatemala claims.

(*d*) It is also proved by the fact that the last treaty entered into after the mixed commission had done its work on the frontier from 1908 to 1910 declaring the same valid; to which Guatemala would not have consented if at that time it had believed that the dividing line should have been set down at such a distance from the boundaries agreed upon at those conferences such as it now claims. And it is well to note that the Hon. Dr. Toledo Herrarte, who has signed the latest claim, also signed the treaty of 1914 in the same capacity of Minister of Foreign Relations of his country. It does not matter that now he alleges that those works were null, to which I shall refer further on, because instead of ratifying the acts of the commissioners of Guatemala it would have been his duty to save the interests of his country, which in his opinion the former had compromised.

Therefore, if for all of the reasons alleged in my replica the royal rescript of 1563 has not been abrogated, repealed, or is no longer in force, this would have been effected by the treaties of 1895 and

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1914; and only because of the certainty of being able to demonstrate this have I accepted this discussion, inasmuch as it relates to a claim which Guatemala had never before even intimated.

PERIOD OF ANNEXATION TO MEXICO.

The representation of Guatemala, contrary to its intention of not invoking any document subsequent to the date of independence, cites in its behalf one which it calls a *law* of the pseudo-Emperor Iturbide, which is merely a general *order* of the War Department dated November 4, 1822. It is not necessary for me to state that Central America regards its annexation to that Empire as illegal and that it was so considered even by foreign historians and by many Mexicans. In the very order its provisional character is recited until such time as the Cortes (Legislature) should make a definitive division of the Empire, and, consequently, even though it had been of legitimate origin, it would not serve as the basis for any territorial right.

Furthermore, I can not understand how that document can be invoked in behalf of Guatemala, for according to it Honduras would have lost only Omoa with respect to Guatemala. But the latter would have lost the departments of Quezaltenango and Totonicapan, which were next to Chiapas, the latter now forming part of the Mexican Republic, unless it considered as sufficient compensation the cession of all of the Salvadorean territory.

I have referred expressly to that document notwithstanding that it has no value, in order to rectify the opinion expressed by the Hon. Dr. Toledo Herrarte that the new division of territory met with the approval of the diputacion provincial (provincial legislature) of Comayagua, and that it was received by the latter *with pleasure and rejoicing*, on the supposition that this had been because they had gained instead of losing territory, for he states "nobody feels happy on being deprived of that to which he is lawfully entitled."

I am led to believe that when this was written Exhibits Numbers 2 and 7 of the Guatemalan replica had not been sufficiently perused, because the first, which is the note of the receipt of the communication of said imperial order which contains the provision for uniting the Province of Honduras to that of Leon de Nicaragua in political and military matters, has this statement, "It (the diputacion provincial) has not ceased to render thanks unto the Highest and thanks your Imperial Majesty, as it is transported with joy by such a proper order, when they *consider themselves free of the ancient yoke of Guatemala which for so many years oppressed this*

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Province"; and the second exhibit, which is an exposition of the Syndic of the Ayuntamiento of Comayagua made two years previously requesting the establishment of a diputacion provincial, dated October 16, 1820, which better expresses *the causes of the pleasure and rejoicing* with which the imperial order was received in the following language: "Your deponent is aware that Your Highness, knowing the imperial necessity that there is of establishing said junta provincial by virtue of my first representation, has appeared for that purpose to the provincial or preparatory of Guatemala, but permit me to say that nothing favorable can be expected of them, because the interests of that capital are diametrically opposed to those of the Provinces and particularly to that of Honduras, which at all periods and times it has attempted to destroy by all means that malice, intrigue, and ambition could suggest. It is not the syndic who proclaims these truths, but the notoriousness of the facts. *Thus speaks that scandalous fair of Chalchuapa, in which for over a century and a half they compelled us to take our cattle and where they sent a judge, appointed by them and who was their protégé, who at his will not only fixed the price at which we should sell but also the persons to whom we should deliver them. This irregularity, this ambition, this despotism, and this atrocious sacrifice attaining such degree that in one case there was a proprietor who had a purchaser who would pay him ten pesos a head for his cattle but was nevertheless obliged to sell it at four, which was the price fixed by the judge. Let the ports of Omoa and Trujillo speak, which they kept closed for over a century so that in this manner we would be compelled to go to Guatemala to purchase whatever we needed for our commerce and even to dress our families.*" And I can not understand what object there was in presenting this document, because the only thing *therein* is the designation of the boundaries of the Province of Comayagua at the Guanajos Islands, which I can not see has any relation to the matter under discussion; and from the excerpts above transcribed it proves the contrary of that it was desired to establish thereby.

ECCLESIASTICAL JURISDICTION.

Honduras has accepted as one of the proofs for the establishment of the boundary documents relating to the ecclesiastical jurisdiction, for it was thus provided by the royal ordinance of intendants and it had been so previously stated in the royal rescript of August 23, 1745, if these are taken into consideration in the order established in the treaty, in respect to which the representative of Guatemala now seems to be in accord. Among the documents presented there

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are several which confirm the rights of Honduras to the territory which it claims on the other side of the Motagua, because it was included in its bishopric, and in the oral discussions I shall present some others which ratify this. I must make a rectification of one point maintained by the representative of Guatemala. He states "there is a provision which marks out and defines the boundary line of the diocese and Province of Guatemala ad mesuram, fixing for that an extension of 214 leagues from the public lands of Motocinta which is its point furthest (sic) west to Comayagua which is the point more (sic) to the east." I do not know that provision and I hope that he will present it, although I am inclined to believe he has taken it from Juarros, whom he did not wish to mention and who expresses himself in the same terms, with this distinction, not a slight one, to be sure, that he (Juarros) does not indicate Comayagua as the point furthest east, but the curacy of *Conchagua* (page 8, Vol. I, work above cited). In the same terms as Juarros, Jose Mariano Mendez, a diputado to the Cortes (member of the Spanish Parliament) expressed himself in 1821 (memorial on the political and ecclesiastical state of the Captaincy General of Guatemala, and bill for its division into eight Provinces, for so many other provincial diputaciones, jefes politicos, intendants, and bishops, 1821). The citation made by the other party thus corrected serves rather to show that the jurisdiction of the bishopric of Guatemala ended at the boundary of what is now the Republic of El Salvador, with the ancient partido (district) of Choluteca.

I wish to make another rectification. Dr. Toledo Herrarte maintains that in the colonial period the archbishopric of Guatemala "reached the Choluteca, Nacaome, and other points beyond the line fixed by the royal decree (sic) of 1563—places which were afterwards invaded without any right whatever by the bishop (sic) of Honduras"; basing this on a letter dated 1676, which I hope he will exhibit to me. The representative of Guatemala would have refrained from making that statement had he read Juarros, who, speaking of the Bishop Fernando de Guadalupe Lopez Portillo, who governed the diocese of Honduras from 1725 to 1742, stated "he increased his bishopric with the curacy of Goascoran, which formerly belonged to Guatemala" (page 184, Vol. II, work above cited). Goascoran is a village of the ancient partido (district) of Choluteca, situate to the west on the Salvador border. The same Juarros (page 139, Vol I), in a footnote, says "and he likewise added the partido (district) of Choluteca, which formerly belonged to the bishopric of Guatemala, to that of Comayagua on the petition of Dr. Juan de Sto. Matia, because of its great distance from the cathedral of Guatemala."

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Furthermore, I shall in this section make a merely geographical rectification. The representative of Guatemala states that Jocotan and Esquipulas are situate on the western slope of the Merendon, Grita, Gallinero, etc., and that the jurisdiction of its curacies extended to the summit of said mountain. This is not correct, because between Esquipulas and the mountain there is the valley of Sesecapa and of the Lempa River, which in fact empty their waters into the Pacific. Between Jocotan and the mountain there are the valleys of Jupilingo and of Copan along the rivers bearing the same names, whose waters flow into the Atlantic. Consequently, it is not the fact that said parishes are on the slope of the mountain. And I will say in passing that the citation which the representative of Guatemala makes of the visit of the Archbishop Pedro Cortes y Larraz and of the general state of the archbishopric which was made by Archbishop Dr. Cayetano Francos y Monroy, compel him to admit, as I have set forth in my replica, that that archbishopric did not comprise any of the territory of the eleven departments of Honduras affected by his latest claim, with the exception of the valley of Copan, as to whose dominion and possession Honduras has so many incontrovertible proofs.

TREATIES OF 1895 AND 1914.

The two parties are agreed that these treaties are the foundation for the discussion. I have only one explanation to make and that is that in my judgment the Governments in referring to "the extent of territory which constituted the former Provinces of Guatemala and Honduras on the date of independence" did not intend to state that that area must be established by documents which expressly defined it, because then this question would not exist, but only by this it was to prove that on the date of independence each Province was exercising jurisdiction not disputed by the other within specified territory; and only in those cases where there shall have been a doubt or controversy shall recourse be had to the indirect means which tend to establish such area and define the dispute. I have noticed that the other party confuses *legal possession* with *dominion* under the supposition that he who has a title deed although by virtue of it he has never enjoyed the thing is the legal possessor thereof, and this is not correct either under civil law or under international law. I shall not dwell longer on this point, because the fact is that Guatemala has no title on which to base its claim, nor can it claim possession for a single day; whereas Honduras has all legal title, or rather several titles, on which to base its, and it has shown and will continue to show that up to the date of inde-

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pendence it has been in possession of the territory which it claims and thereafter along the line on which up to the period indicated by me both countries recognized as the boundary line de facto.

STUDY OF THE LINE.

The representative of Guatemala states that the work executed by the mixed boundary commission on the frontier from 1908 to 1910 "is null and void because it does not comply with the convention of 1895 and because it was executed clearly in violation of the same," basing it on three grounds.

(1) Because the surveys and plans of the engineers went much further than the boundary line, which constituted a violation of Article II of the treaty, which only allows that the said work be carried out upon the soil of the said boundary line.

Now I ask Dr. Toledo Herrarte what was the boundary line on which the engineers were to execute their work? This question is warranted, because they were precisely going to investigate it, naturally in the vicinity of the line de facto, recognized or until then disputed. I can not conceive in what respect the essence of the treaty could have been affected, even though it should treat of a line clearly established, by the fact that the work should have been extended more or less, because that would serve to throw greater light on the question, and I can not conceive what harm it could cause. On the other hand, it is well known that modern engineering, under the system of triangulation, requires that there be taken the most visible and easily recognized points, even though they be found at a great distance, in order to define a line or to establish a boundary line which is being sought. The representative of Guatemala falls into a vicious circle, because he considers as being in existence the very thing that is being discussed, although he thereby acknowledges that the dispute in regard to the boundary related to a narrow strip immediately next to the line which the engineers went over; and he acknowledges at the same time that the Government of Guatemala did not even intimate to its engineers the possibility of a line situate 200 to 300 miles distant from that which they were in search of.

(2) Because the commissions fixed the line of actual possession in flagrant violation of Article VI of the treaty which adopts the *uti possidetis juris* of 1821, so that if they were to fix any line of possession this ought to have been the one of that year and not the one of eighty or ninety years afterwards.

In truth, I can not understand how the commissioners could have fixed the line of possession as of 1821 as precisely, because it was considered doubtful said commission had been organized to investi-

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gate it. That would have been the termination, but could not be the beginning of its work. The establishment of the line of actual possession was for the purpose, well justified, to be sure, of fixing a line which should serve as the basis for the studies and investigation, a line acknowledged by both countries as the actual limit of their jurisdiction. The commissioners very clearly stated that that line did not prejudge the rights of the parties and would serve the lawyers and engineers in making their investigations tending to show if "the actual possession was just, legitimate, and founded in conformity with the general principles of law and the rules of justice which on the subject is sanctioned by the law of nations."

(3) That the mixed commission also violated the treaty by examining the documents, disregarding the order fixed in Article VI, and in so disregarding it acting arbitrarily.

As a basis for this he alleges that the Honduran commissioners gave to the title deeds of private ownership an importance which they do not have and are not entitled to under the treaty in force. I can not understand how there can have been a violation of the treaty because of the fact that the mixed commission made a simple study of any document in whatever order it may have been, and that the Honduran commission shall have alleged any claim whatever. If he had alleged that the agreement as to certain points arrived at by the commissioners of both countries had been unduly made, his objection would have greater evidence of foundation. But such was not the case. They fixed on Cerro Brujo and Cerro Obscuro, because they had never been the subject of dispute, and the former also because it was the common boundary of the two Republics with that of El Salvador, whose representative attended at the establishment thereof. The fact that the members of the mixed commissions were not in accord on other points of the line or in regard to the juridical value to be given to the documents presented implies no violation of the treaty, because that being a case foreseen under the treaty the respective commissions fulfilled their duties thereunder by setting forth their respective contentions and drawing their lines on the map. The same treaty also foresaw another case by providing that upon the termination of the work of the commission, whether or not the latter had been in accord, it should be submitted to the two Governments, who would endeavor to fix the line by taking into account the work of the commission.

At this point I want to refer to the minutes of the meetings held by the mixed boundary commission at Ocotepeque in 1916 in compliance with the treaty of 1914. On that occasion the members of the commission in behalf of Guatemala, among whom figured Messrs. Engineer Claudio Urrutia and Lawyer Marcial Prem, here present, proposed that the studies and the preparation of maps should be

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limited to the territory comprised between the Chamelecon and Motagua Rivers, expressly accepting that between these two rivers the boundary lines should be sought; consequently, it was very far then from the mind of the Government of Guatemala to claim up to the Ulua River.

The commissioners of Honduras rejected that proposition because Honduras considered itself entitled to the territory on the other side of the Motagua and it should be studied in order to fix the line on the same. Does the representative of Guatemala consider that work also null and void? At this point I wish to refer likewise to a document inserted in one of said minutes which had been expressly presented by the commissioners of Guatemala, wherein is set forth the violent manner in which that country took from Honduras the possession which it had of said territory on the other side of the Motagua along Izabal, thus explaining why it is in the possession of that Republic instead of its legitimate sovereign, Honduras.

The representation of Guatemala having failed to prove in any manner whatever the nullity of the works of the mixed commission, *expressly declared valid* in Article VI of the treaty of 1914; and the royal rescript which it invokes as the basis of its rights and of its possession *juris* having proved of no value, there remains in full force and effect the acknowledgement of the boundary points of Cerro Brujo and Cerro Obscuro made by the boundary commission which worked on the frontier, and as the basis for the claim of Honduras there is the royal rescript of May 17, 1564, in conjunction with another of September 8, 1563, which declared that Gracias a Dios and San Gil de Buena Vista belonged to the Province of Honduras, there remaining thus only to determine the dividing line to those two territories with their neighbor of Guatemala, for which purpose the other documents cited as the basis for the claim of Honduras will serve.

LAND TITLES.

The representative of Guatemala denies primary probative value under the treaty to the title deeds to provide lands which have been proceeded under and granted without the knowledge or citation of the neighboring State. I shall distinguish these documents among four classes: (*a*) Those issued prior to September 15, 1821, (*b*) those issued subsequently but prior to 1839, that is to say, under the Federal Government, (*c*) those issued subsequently but prior to the date of the 1895 treaty, and (*d*) those issued after that date.

(*a*) The title deeds issued prior to 1821, which were approved by the royal audiencia, the measurements having been made by public officials who were called subdelegados del ramo, are clearly public documents of undoubted faith insofar as they declare the jurisdiction

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in which was situate the land which was being measured and the lands which were adjacent belonging to the same or a different province, there appearing in many of said documents the citations issued to the neighboring village of foreign jurisdiction. These must serve as the basis for determining how far the territory of each Province extended prior to 1821 and up to that date so long as there be no proof to the contrary, but when in those title deeds is set forth the boundary line between two Provinces then they become public documents of the class placed in the second order under article VI of the boundary treaty now in force, and thus the lines to which said documents refer must be taken as therein marked out. For example, among others there is a title deed to "Tapesco de Avila y Leona" submitted as exhibit IX in my replica, and there are some others which are of the same character.

The representative of Guatemala assures us that his country has a greater number of ancient titles than Honduras. Those with which I am acquainted are not in contradiction in general, the ones with the others, and I trust that he will exhibit those which he has in order to throw light on the question. In the map wherein there has been allocated the lands under title deeds, confirmation will be found in my above statement.

(*b*) Title deeds issued after the date of independence, but prior to the dissolution of the federation, have also special importance in this discussion, both because of their proximity to that date and because if one of the States in its measurements had invaded the rights of the other there exists a common authority to reestablish justice.

(*c*) Title deeds subsequent to the dissolution of the federation always have some value relative to their antiquity and in the absence of documents to the contrary.

(*d*) Title deeds issued subsequent to the date of the treaty of 1895 can have no value whatever in fixing the boundary line, because that treaty could not and did not take them into consideration.

OPINIONS, DOCUMENTS AND REPORTS.

Notwithstanding the belief expressed by the representative of Guatemala, I have not cited Juarros, Marure, and Larreinaga as a foundation for the claim set forth in my memoranda of the 24th and 30th of May, but have cited them in order to prove, supported by the historians, that in the last years of the colony and for nearly twenty-five years after the independence there was in Guatemala an interest in maintaining that the dividing line passed through the Copan Valley and ran along the Motagua River; in other words, that up to that date there was no dispute as to the possession by Honduras of the territory east of that line. If there was any error

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on the part of the historians it was due to the fact that they had not taken into account the titles which gave Honduras a right to the territory on the side of the Motagua up to Belize which originate from the agreement between Alvarado and Montejo, 1536–1539, the royal rescript of 1564 in relation with that of 1563 regarding the boundaries of the audiencia, and the royal rescript of 1745 and the other documents signed by officials of the colony which I have cited in my memoranda.

The representative of Guatemala speaks in disparaging vein of the historian and geographer, Father Juarros. Of no value is my opinion as against his if I state that I have the highest opinion of Juarros. I prefer to cite the opinion which he has deserved at the hand of the first of the historians of America who has written in the United States, Hubert Howe Bancroft, who, at pages 142 and 737 of volume 2 in his History of Central America, pays a tribute of admiration to the Guatemalan historian and geographer, as will be seen by Exhibit X hereof. I shall also cite the opinion of Jose Mariano Mendez, a diputado to the Cortes (representative in the Spanish Parliament) in 1821 for the district of Sonsonate, Central America, in the work previously cited, who expresses himself in the same terms as Bancroft (Exhibit XI). It must be borne in mind that Juarros published his work after first obtaining the approval of the respective civil and ecclesiastical authorities of Guatemala. I can also cite Stephens and Squier, United States ministers to Central America, who in their well-known works pay a tribute of admiration to the same Father Juarros; and it would be a lengthy task to cite all of the historians who are agreed on that point because whoever has written on Central America has been obliged to bow before the authority of the learned Guatemalan.

Regarding Marure, it suffices to say that all of Central America bows with respect when his name is mentioned as that of a serious and impartial historian. And regarding Larreinaga I will say that even to our day his reputation for wisdom still obtains. Marure and Larreinaga both being Guatemalans, if any belief might be entertained not with respect to their partiality because of their honorability but as to any unconscious bias that would in such case be in favor of Guatemala. Thus we can see the zeal with which they drew the instructions in preparing beforehand the defense of Guatemala against the claim of Honduras to the territory which it claims west of the Motagua. That is why they say in recommending the Arrowsmith map that care be taken not to be misled by the "yellow coloring" which the territory of Honduras has. And that was because this map, which among the old ones gives least territory of any to Honduras on the other side of said river, nevertheless carries a line to the Bay of Graciosa, inclusive.

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(2) It was on the part of Guatemala, commencing with 1847, that its commissioners presented the testimony of witnesses to establish the dividing line. Honduras continued the same in order to contradict the former, but as the representative of that Republic (Guatemala) well states, this medium of proof is the last to which resort can be had, principally because the witnesses have an interest in the dispute. I also agree that the correspondence between the superior and subordinate authorities of each Province dated subsequently to the independence can only serve as proof of actual possession as of the date when they were written, but the contrary must be said when dealing with the communications or letters rogatory from the authorities of one Republic to those of the other, inasmuch as this signifies the express recognition of the sovereignty of the latter in the places to which the correspondence or letters rogatory relate.

ROYAL RESCRIPT RELATIVE TO THE APPOINTMENT OF JUAN DE VERA.

I have not claimed that this royal rescript gave to Honduras the right to the territory on the Atlantic coast up to Belize. I have maintained and I still maintain that that is the express confirmation of the rights which Honduras had already acquired since the time of Pedro de Alvarado, ratified by the royal rescripts to which I have referred in this memorandum. It is now incumbent upon Guatemala to prove that part of the territory to which this royal rescript refers did not belong to the Province of Honduras nor to its bishopric; it must show that that document is not one establishing the boundaries between the two Provinces by presenting another of *like character and greater force* which fixes different boundaries. But I do not wish to oppose with simple arguments the opinion of the Hon. Dr. Toledo Herrarte respecting the interpretation of said rescript. I want to place above the opinion of both of us the authority of the King of Spain, Alphonso XIII, who, under date of December 23, 1906, rendered an award in the arbitration of the boundary dispute between Honduras and Nicaragua, in which award there is the following:

Whereas, as a precedent for the provisions of said royal rescript of 1791, there must be considered the demarcation made by two other royal rescripts of August 23, 1745, one of them appointing as the governor and commandant general of the Province of Honduras Juan de Vera to command that Province and the others comprised in all the bishopric of Comayagua and the district of the alcaldia mayor of Tegucigalpa, and of all of the territories and coasts comprised between the termination of the jurisdiction of the Province of Yucatan to the Cape of Gracias a Dios; and the other appointing Alonso Fernandez de Heredia governor of the Province of Nicaragua and commandant general thereof, of Costa Rica, Corregimiento of Realejo, alcadia mayor of Subtiaba, Nicoya, and other territories comprised between the Cape of Gracias a Dios to the Chagres River exclusive; in which documents there is fixed the

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Cape of Gracias a Dios as the boundary point of the jurisdictions granted to the aforesaid governors of Honduras and Nicaragua in the capacity for which they were appointed.

The King of Spain, with the advice of his council, the best judge of all, because in his country are the colonial archives for the interpretation of the documents of that period which emanated from the Spanish Crown, expressly recognizes the same royal rescript which is the subject of this discussion as one fixing the boundaries of the Provinces of Nicaragua and Honduras. So that if the King were the arbitrator in this dispute, following that precedent, he would adjudge that the territory demarked in said document belongs to Honduras commencing from the boundary of Yucatan to the Cape of Gracias a Dios (without prejudice to the rights therein which the British nation may have acquired), even though no other documents in favor of that claim should be presented.

I do not want to fail to make another rectification. Neither the royal rescript regarding new instructions to Juan de Vera, which was submitted by the representation of Guatemala (Exhibit 6 of its replica), nor that of the appointment of Francisco Cagigal as captain general (which he merely cites but which I have at hand), state, as asserted by that representation, that *there are revoked the powers* previously granted to Vera, because they merely admonish him to continue subject to the authority of the captain general in the same manner as his predecessors had been.

The representative of Guatemala must admit that after all of the above set forth, I am justified in not admitting that his country and not my country is in the right in this dispute, in as much as he has not presented any documents which contradicts or even impairs the value of those which support the claim of Honduras.

EXHIBITS PRESENTED.

I shall not for the present examine into the other documents submitted as exhibits and those cited in the body of his replica by the representative of Guatemala, because I prefer to do this in the oral discussions, and with respect to the latter when I have them in their entirety before me. My reservation with regard to the latter will be considered justifiable, whether because of the errors which I have found in some of the citations and copies or because an inspection of the entire document may suggest to my mind a different conception of them from that entertained by the representation of Guatemala. For my part I shall be prompt to exhibit all the documents which I may have cited.

Among the documents presented by the other party there are two (Numbers 3 and 4) with which it is attempted to prove that the

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President of Guatemala was accustomed to issue title deeds to lands in the jurisdiction of Trujillo in the year 1803, thereby establishing that that belonged to Guatemala. They failed to state that it was the president of the audiencia of Guatemala, which is nothing new, for I have previously indicated that it was that audiencia which approved all of the proceedings regarding the sale of national lands in all of the Provinces of the Kingdom. Those documents do prove something new, and that is that at that time and for some years prior and subsequent thereto the Atlantic coast of Honduras was under the direct command of the captain general of Guatemala (president of the audencia), so that if that State had prevailed at the time of the independence it would have been difficult for Honduras to establish its sovereignty on that coast. But first Trujillo and later Omoa returned to Honduras by order of the King. It matters not to enter into details as to how Trujillo returned as that is not the subject of this dispute. Omoa with its ancient jurisdiction was returned to Honduras by royal rescript of October 16, 1816 (Exhibit XII). Will the representative of Guatemala see in this document a further proof of the nullity of the much debated royal rescript of 1563?

TREATY WITH ENGLAND REGARDING THE TERRITORY OF BELIZE.

I trust the representative of Guatemala will courteously be pleased to submit this document for an examination in its entirety. For the present I can only make a temporary reply to his question. If my memory serves me right that treaty was made at a period when Mr. Chatfield was the British consul in Central America, who was constantly allied to the Government of that Republic (Guatemala) in its contests with the others of Central America, especially with Honduras. It will then be found natural that he should prefer to deal with Guatemala, where he had a Government that was friendly to him, instead of dealing with Honduras whose Government he was antagonizing. It can be explained also by the fact that as Belize bordered with a part of the former territory of Guatemala and with that which after the independence it occupied notwithstanding that it belonged to Honduras he should find it easier to acquire the territory from the one who was the actual possessor of the neighboring territory.

THE GUATEMALAN CLAIM AND ITS BASES.

I have nothing to add in opposing it, because with respect to the value of the royal rescript of September 8, 1563, the only document on which it relies, I have said enough in my replica, and in the beginning and in the course of the present paper. I have only to add

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that all of the arguments advanced by the representative of Guatemala under the supposition that it is based on a valid document are applicable to the claim of Honduras based on documents of the same class as the former but of greater force.

No mention even should have been made of the treaty whereby Spain recognizes the independence of Guatemala, because as admitted by the representative of that country (Guatemala) it is drawn according to the same model which had served for the recognition of all of the Republics of America which had been its colonies. That with Honduras is the same, and for the same reason neither gives nor takes away rights of any of the two countries. To cite such a treaty as an argument is to fall once more into a vicious circle, which in all of his argumentation the other party has been doing all along.

For Spain to have been able to cede to Guatemala a part of the Honduran territory, it would have been necessary that at that time it should have still retained sovereignty over Honduras, and if it is claimed that what was ceded was the territory which had always belonged to Guatemala and which Honduras was retaining, that is precisely what the other party should have stated, but has not been able to prove.

In the state in which this dispute finds itself, it is not for me to make any proposition. I only ask that the rights of the two Republics be investigated and made clear, which I trust will be obtained by the presentation of documents and oral discussion thereon, and then a means may be sought of arriving at an agreement regarding a natural and stable line as far as possible and above all an equitable one, taking into consideration the legitimate interests of the two parties. I have believed that this can be obtained in the way which I indicated in my replica for the discussion of the matter, but I shall await the different plan to be proposed by the representative of Guatemala to which he referred orally at the last meeting.

I have already stated, and I now repeat, that the people and the Government of Honduras, and I, acting in their name, are anxious to have this annoying dispute between the sister countries definitely settled. The occasion is propitious, because we count with the efficacious aid which the mediating Government would lend us by means of its learned, impartial, and opportune observations and counsel.

(Signed) P. BONILLA.

WASHINGTON, D. C., *June 29, 1918.*

EXHIBIT TEN.

"Domingo Juarros may be considered *the leading Guatemalan historian of modern times.* He was born in the old city of Guate-

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mala in 1752, and died in 1820. He wrote very fully on the subjugation of his country by the conquerors. Although his work is called the history of Guatemala City, it gives in reality the history of all Central America, and provides lists of all prominent officials, civil and ecclesiastical, and biographical notices of leading men, whether soldiers, priests, or rulers. The first volume treats of geography, settlements, church matters, and the history of Guatemala City. The second is devoted to the ancient records of the country, its conquest and settlement. The author was a secular presbyter and synodal examiner, and quite an able and intelligent man. His connection with the clergy and his rank gave him access to both ecclesiastical documents and government records. His work is full and clear, and displays considerable research, but unfortunately he follows Fuentes too closely, and this latter author's partiality to the conquerors renders him too biased to be faithful as an historian. Yet Juarros frequently displays compassion for the Indians, is always ready to retract an error when he detects himself making one, and is ever cautious against dogmatic assertion. He draws largely from Remesal and Vazquez, and quotes several other of the earlier authorities; but strangely enough, while mentioning the manuscripts of Gonzalo de Alvarado and Bernal Diaz, and of writers in the Quiche, Cakchiquel, and Pipil tongues, he does not allude to Alvarado's letters to Cortes. This omission, and his numerous direct disagreements with Alvarado's own statements, lead to the inference that neither Juarros nor Fuentes consulted these despatches. Juarros's work is remarkably free from church bias. Though a priest, he censures undue zeal or carelessness on the part of the friars. Miracles receive attention, however, and so do stories of giants and other marvels. His arrangement with regard to the order of events is bad, and the want of logical sequence gives the work an appearance of incompleteness. The first edition was published in Guatemala by Don Ignacio Beteta, and the two volumes appeared, respectively, in 1808 and 1818. A later issue was published in the same city in 1857. J. Baily translated the first publication into English, in a slightly abridged form, which was issued in London by John Hearne in 1823. In this edition omissions and inaccuracies may be noticed." (Bancroft, History of Central America, p. 142.)

"The next work to appear was that of Juarros, which, having absorbed that of Fuentes y Guzman, was the first published of what might be called a history of Guatemala. Notwithstanding his access to original documents, Fuentes y Guzman committed many errors which were unwittingly copied by Juarros. With the aid of subsequent research, however, these errors are readily detected, *Juarros still remaining the leading historian of Central America*, though

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owing to the greater importance of Guatemala as the seat of government, the greater portion of the work is taken up with the history of this province. In fact, this is the only comprehensive history extant of Guatemala and its adjoining provinces, while the other portions of Central America make scarcely any pretext to the possession of a history. From no other source can the writer obtain connected accounts of their conquest and settlement, description of towns, early resources, and lists of officials and biographies of prominent men. Of the Spanish writers he is also one of the most impartial, even in matters pertaining to the church, though he was one of its ministers. Nevertheless, Juarros is in many respects incomplete. He has failed in a lamentable degree to present anything like the true political, social, and moral condition of the people of the development of the country during this period, and for the conquest and early colonial epochs there is a manifest lack of study and research." (Bancroft, History of Central America, p. 737.)

EXHIBIT ELEVEN.

This work (that of Juarros), little known in the Peninsula (he is referring to Spain), is composed of two quarto volumes, it is the only one of its kind, because nobody has written on Guatemala, and its author, who is Domingo Juarros, presbyter, a native of Guatemala, and synodal examiner of that archbishopric, *has sacrificed time and tedious labor for many years in searching the archives*, and bringing to light the antiquities and precious things to be found in all of that Kingdom and preparing statistics of all of its towns in order to give a complete idea of the whole of the Kingdom from the time of its conquest, which was due to Captain Pedro de Alvarado; so that knowing that this is the first and only writer *all the deserved eulogy is hereby made of his extraordinary merit.* (Jose Mariano Mendez, "Memorial of the Political and Ecclesiastical State of the Captaincy General of Guatemala, and bill for its division into eight Provinces and for a like number of provincial diputaciones, political chiefs, intendentes and bishops, 1821.")

EXHIBIT TWELVE.

Dated at the Palace on October 16, 1818. To the Governor and Captain General of Guatemala, notifying him that the port of Omoa is reincorporated to the Government of Comayagua as it had been prior to its annexation to Guatemala. Made in duplicate and countersigned by the Secretary Silvestre Collar, registered ex officio.

The King. To the Governor, Captain General, and President of the Royal Audencia of Guatemala. Santiago Milla, ex diputado

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to the Cortes (ex representative to the Spanish Parliament), for the Province of Honduras, informed me on August 22, 1814, that in the instructions given to him by that Province he was directed, among other things, to petition, as he has done, for the reincorporation of the port of Omoa to the Government of Comayagua, situate to the north and in the territory of that Province, because this being one of the principal points from which the fruits of the Kingdom are exported it is the most neglected in its government and policing because it is distant 150 leagues from the capital of Guatemala to which said port is now united, and also regarding the impracticability of its roads, its well-known unhealthfulness, and because active compliance with the orders in respect to the government and policing can not be expected on account of its enormous distance from the principal chief of the Kingdom; it is physically impossible to develop industry, commerce and all of the other branches to which the country is susceptible, as also in preventing the notorious contraband of goods and silver which is being done, which unlawful commerce has drained the life of the Province. My Supreme Council of the Indies examined with all deliberation the foregoing exposition. It took notice of a letter document from the governor of Comayagua, in which he gave an account of the considerable contrabrand which he captured which was being introduced through Omoa; it arrived at the conclusion that if, notwithstanding the indefatigable zeal of this chief and his proximity to the aforesaid port, it was impossible to restrain the contraband, how much more serious the difficulty of preventing it from a greater distance. In consequence of which, and after hearing above all my fiscal (fiscal agent) and his general treasury of the Indies, it (the council) consulted me on July 31 last as to what was deemed advisable to remedy such abuses, and being satisfied with its opinion, I have commanded and I do hereby command by this my royal rescript: *That the aforesaid port of Omoa shall remain immediately subject to the Government of Comayagua in the manner in which it had been prior to its annexation to Guatemala, without prejudice to the authority to which you are entitled as the superior chief of the Province:* And I inform you thus in order that you may make such orders as may be advisable for the fulfilment of this my royal decision, because that is my will.

Dated at the Palace, etc.

The above copy agrees with the original which is in existence in these General Archive of the Indies at Legajo, 100–2–7. Sevilla, July 10, 1906.

P. TORRES LANZAS,
Chief of the Archives.

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[Translation.]

GUATEMALAN SPECIAL BOUNDARY MISSION,
Washington, D. C., July 2, 1918.

YOUR EXCELLENCY: Having prepared the exposition which I was to send to your excellency to refute the replica of the honorable Honduran delegation, I have now received, through you, a memorial which, referring to my last memorandum, purports to combat the foundation of my argument.

As, in order to save time, I should refer in a single document to the two documents presented by the Honduran delegation, I shall be compelled to delay sending to your excellency my memorandum of refutation for a few days. I have the honor to inform you of this, praying at the same time that you be kind enough to use your good offices and ask the Honduran delegation to send me an English copy of the memorial to which I refer herein, and which I received yesterday in Spanish only.

I take advantage of this opportunity to repeat to your excellency the expressions of my highest esteem.

(Signed) LUIS TOLEDO HERRARTE.

To His Excellency BOAZ LONG,
Representative of the Mediator Government.

[Translation.]

GUATEMALAN SPECIAL BOUNDARY MISSION,
Washington, D. C., July 25, 1918.

YOUR EXCELLENCY: I have the honor to enclose to your excellency my reply to the réplica and dúplica submitted, through you, by his excellency Dr. Don. Policarpo Bonilla, chief of the Honduran delegation, appointed to adjust the boundary question between Guatemala and Honduras.

Said document consists of thirty-six pages, and, with the original which is intended for the illustrious mediator Government which your excellency so creditably represents, I take the liberty of enclosing also a carbon copy for the distinguished Dr. Bonilla, into whose hands I pray you have same delivered.

I take advantage of this opportunity to repeat to your excellency the testimony of my highest esteem.

(Sgd.) LUIS TOLEDO HERRARTE.

To His Excellency Mr. BOAZ LONG,
Representative of the Mediator Government.
WASHINGTON, D. C.

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ANSWER OF THE DELEGATION OF GUATEMALA TO THE REPLY AND REJOINDER OF THE DELEGATION OF HONDURAS FILED ON JUNE 22 AND 29 RESPECTIVELY.

GUATEMALAN SPECIAL BOUNDARY MISSION,
Washington, July 25, 1918.

I had already prepared the answer which I must give to the reply of the honorable delegation of Honduras when I received the document which under the name of rejoinder was presented by the distinguished chairman of the said delegation purporting to refute my arguments. As the said document contained several assertions which are intimately connected with my answer, I have deemed it proper, in order to gain time, to include in my said answer the refutation of the two Honduran pleas, and to both of them I have the honor to refer.

I shall begin by determining in a preamble or introduction, what in my judgment seems to be proper as regards the friendly and benevolent mediation of the illustrious Government of the United States; I shall make a synopsis of the claims of my country and of the arguments presented by the high party on the opposite side in order to refute them, and I shall analyze in the same way the Honduran claim and the grounds upon which I based my refusal of the same, showing at the same time, the lack of right on the part of my opponent.

INTRODUCTION.

Having in mind the present status of the question, it is advisable to consider something which may be taken as a preliminary thesis for the solution.

This preliminary question may be briefly stated thus: Must we take legal principles strictly into consideration in order to find a solution according to law, or may we solve this question equitably; taking into consideration the convenience of the two countries?

What we have in hand is not an arbitration proceedings. We have come before this just Government, after being convinced that the course followed for a good many years has proved absolutely fruitless: Three conventions have been concluded; joint commissions of technical persons have vainly succeeded each other; diplomatic negotiations from Government to Government have been recently attempted and everything has been useless: the question still remains without solution. For these reasons we have attempted to put forth a new effort; we have come here to attempt to reach an understanding in the house of a common friend, and in case that we should not succeed in this purpose, to submit to him our differences in order that he may, through his wisdom and sense of justice and love for harmony among nations, suggest to us a solution, and endeavor to conciliate our interests.

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With this purpose in view we have stated our legitimate claim and our legal foundations for the same; thus, both the mediator and ourselves shall be able to appreciate the value of our rights and arrive at the friendly and conciliating solution which we all wish for.

Now then, what is the procedure which we must follow to arrive at this solution? Señor Bonilla suggested at first, in his memorandum of the 22d last, that the line should be discussed orally by sections, dividing it into three or four of these sections, as it should turn out to be advisable from the course of the debates, and that after an agreement should be reached as to the legal boundary line, the latter might be modified in the attempt to determine the natural boundary nearest to it, under the rule of compensations provided by Article VII of the convention. Subsequently, in his rejoindure of the 29th, he changes his mind and says that he is not ready to make any proposition, but only requests that the rights of the two Republics be investigated and made clear.

The high party on the opposite side having taken these grounds, I believe that no discussions, either oral or written, of any kind are in order, and that the case has arrived for the illustrious Government of the United States, in the exercise of its good and friendly offices as mediator, in view of the rights of both parties and of their political and economical convenience, to suggest to us a solution which shall bring our interests into harmony and finally solve our differences.

In view of the foregoing, I will propose the following:

First. That the case shall be referred to the mediator with the request that he shall suggest to us the solution which, in his judgment, he shall deem advisable and just for the two countries;

Second. That we shall bind ourselves to furnish the mediator with all the explanations, data, and documents that he shall deem advisable, engaging to give each other a copy of everything which we shall file with him;

Third. That the mediator be empowered to call new conferences upon such specific points as in his judgment shall call for an amplification of discussion, communicating them previously to the parties; and;

Fourth. That the representatives of the two Republics, shall within the discretional time limit which the mediator shall appoint, state whether they accept or refuse the solution suggested by him. If they do, they shall proceed to conclude a treaty accordingly; if, unfortunately, they should not accept such a solution, the mediator shall, as soon as he shall deem his good offices exhausted, declare the mediation at an end.

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SYNOPSIS OF THE CLAIM OF GUATEMALA AND OF THE HONDURAN ARGUMENTS PURPORTING TO REFUTE IT.

In my memorandum under date of May 30 I stated very clearly and precisely that the boundaries between Guatemala and Honduras should be fixed in accordance with the royal decree issued by the Spanish Monarch on September 8, 1563, a document which I transcribed and which, according to Article VI of the treaty in force, established the territorial extent of the two Provinces to the time of the independence, inasmuch as until then it had not been modified in legal form.

Grounded upon historical facts, I showed how the Province of Honduras was constituted from the time of its foundation to the time when the aforesaid royal decree was issued, stating previously—in order to rebut beforehand arguments which might be presented by the Honduran delegation, for they had already been advanced by the technical commissioners at the last conferences of 1916—that the landing of Gil Gonzalez Dávila on the coast of Amatique did not give him a right to Honduras in order to extend his sovereignty up to that point, because it was chance which took the Spanish conqueror to that point and not the purpose to colonize those territories for Honduras over which he never had any claim to make, for his aspirations were concentrated on Nicaragua—a Province of which he was later appointed governor—and because the small town of San Gil de Buena Vista was depopulated and abandoned.

From the statement of such historical facts, which unsuccessfully, as I shall prove it, Dr. Bonilla attempts to refute, he tries to demonstrate that the Honduran claim to Golfo Dulce is something traditional.

I shall proceed by stages: First I shall prove that the representative of Honduras does not, by the citations which he makes of the historians Milla and Zaragoza, refute but confirms my historical assertions.

Let us see. I said, speaking of Gil Gonzalez Dávila, "after he got everything ready, he started on his journey with the intention of landing at Puerto Caballos, but this he found impossible for the reason that a great storm carried him farther, and he only succeeded in landing about the middle of the year 1524 on the coast of Amatique, where, as he said, he founded San Gil de Buena Vista; but in reality he did nothing more than leave there, as forsaken, a handful of men, without organization and without resources."

Speaking of the arrival of Gil Gonzalez Dávila in San Domingo, Milla says: "Being satisfied with the result of his excursion and

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little minding the hardship which he had suffered and the dangers in which he had seen himself, he began to show signs of preparing a new expedition; and he, wishing to do things in proper shape, he sent his treasurer Cereceda to apply for permission to the court *to start around the coast of northern Honduras in search of the outlet of Lake Nicaragua, which he imagined must be in that direction.*

Further on the same historian continues: " * * * so that as soon as the treasurer had arrived in San Domingo, the escadrille set sail and, encountering favorable winds, arrived (1524) at the coast of Honduras. Gonzalez chose a suitable place *to land; but before he could do so the weather changed suddenly*, and, a few horses having died, he ordered them to be thrown overboard with the greatest secrecy, so that the Indians, who undoubtedly were observing what was happening, should not discover that those animals which inspired them with so much terror were also mortal. That circumstance gave origin to the name Puerto Caballos, which that road has preserved to the present day. *He continued his voyage and landed near the Cape of Tres Puntas or Manabique, where he founded a town which he called San Gil de Buena Vista, which was the first one founded by the Spaniards on those coasts and which subsisted a very short time.*"

It is seen, therefore, by what is said by the same historian by which Dr. Bonilla attempts to rebut my assertions, that Gil Gonzalez Dávila started from San Domingo with the purpose of finding the outlet of Lake Nicaragua; that by mistake he went to Puerto Caballos, where he could not land on account of bad weather, and that he continued his voyage and landed at Manabique or Amatique, where he founded San Gil, which subsisted a very short time.

Is not that the same thing which I have sustained? I can not explain to myself how the representative of the high party on the other side could have asserted the opposite.

"Nor is it correct that San Gil de Buena Vista," he continues, "was entirely depopulated; and we must believe what has been said by Justo Zaragoza, who asserts that what the conqueror of Guatemala, Pedro de Alvarado, did, was to repopulate the said place." Page 6 of the reply (joindure).

That citation confirms my opinion. The word repopulate (repoblar) in Castilian means to populate again; it is composed of the preposition " re " which means repetition, and of the verb to populate (poblar); and to repopulate means to populate again what has been depopulated before; the site or place with a population does not need to be populated again; its population may be increased, if it is small, but the place is not repopulated, and the Castilian tongue

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has a vocabulary sufficiently extensive and complete, not to need the use of words which do not answer to the meaning which it is intended to convey. So that, therefore, when Zaragoza says that San Gil de Buena Vista was repopulated, he means that this town had no longer any population, which I asserted.

Upon the other hand, the said historian confirms the fact that when San Gil de Buena Vista had a stable population was when it was populated by the conqueror of Guatemala, Don Pedro de Alvarado, who surely would not have founded that village for the Province of Honduras, of which he was not then governor, but for that under his rule.

No happier is the distinguished representative of Honduras when he asserts—I know not with what object, because even if it was true that would give him no right whatsoever—that his country has always maintained the claim that its boundaries extend to Golfo Dulce.

The claims of Honduras refer only to that territorial portion included between the western slopes of the mountain range and the River Ulua; that is to say, to the point on which the question has been localized since the colonial times, and which in spite of the demarcating royal decrees of 1563 and 1564 was always pending, because, as I have shown, the inhabitants of those territories refused to respect and obey such decrees. So that, therefore, for that reason, Honduras has had possession of that portion.

Guatemala, in her constant desire to keep peace in Central America, has followed a policy of conciliation and tolerance; a policy which, undoubtedly misinterpreted by the Honduran Government, has given occasion for the exaggerated development of its claims to the extent of wishing to deprive Guatemala of all her northern coast, as the honorable chairman of her delegation now claims.

The aspirations, therefore, of the Government of Honduras, up to the time of the independence, did not extend beyond the mountains on the western side, whereas those of Guatemala were restricted to the region to which the claim which it has formulated in these negotiations refers.

The Honduran delegation intends now to sustain that it has maintained its present claim.

I beg leave to gainsay these unfounded assertions.

In the last negotiations of the joint commissions, as I have already suggested, which took place in the year 1916, the Honduran commissioners let such claims be seen when they advanced some of the arguments which I tried to refute in my memorandum. Hence I knew such claims; not as Señor Bonilla says, because it was something traditional.

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On the contrary, what was traditional among Hondurans was to sustain that the boundary with Guatemala was fixed by the mountains of the Merendon, Grita, Gallinero, etc. It is thus shown in official Honduran maps, works of a similar character, and writings prepared by her officials.

Among many which I could cite I wish to confine myself to the following, because they have special relations to the persons and affairs dealt with herein:

First. I refer to the book entitled "Notes for the History of Honduras" (Apuntes para la Historia de Honduras), written by Don Robustiano Vera, consul general of the said Republic, and dedicated to Dr. Don Policarpo Bonilla, at the time when he occupied the Presidency (alta magistratura) of his country. In the said book, page 41, it is stated that "the State of Honduras had as boundaries the Republics of Guatemala, Salvador, and Nicaragua, as well as the coast on the Pacific and on the Atlantic, or Caribbean Sea," and that *the boundary with Guatemala is determined by the mountains of Grita, Espiritu Santo, and Merendon.*

At that time Señor Bonilla had not even conceived the claim which he to-day maintains, because if he should have had it and if it should have constituted, as he now sustains, a traditional point in the policy of Honduras, he would have protested against such publication and inserted the protest, as it is customary, in the official bulletin of his country. He did not, however, do this, but, accepting the amiable dedication of the author, he tacitly approved the statements in the book.

Second. I refer to the map of the Republic of Honduras made by A. T. Birne, civil engineer of the Honduran Government, and sold by special authority of the said Government, by the engineer, C. N. Fiallos, who, a few years later, was secretary of state of his country. In the said map, the *mountains of the Merendon, Grita, Gallinero, etc., are fixed as the boundary with Guatemala.* And

Third. I refer to the brief presented under date of March 20, 1905, by Dr. Alberto Membreño, representative of Honduras, to His Majesty, the King of Spain, on the occasion of the boundary question with Nicaragua. In that document the official spokesman of the Honduran Government says that in carrying into effect the royal ordinance of "intendentes" of 1786, more cohesion was given to the Province of Honduras, because the alcaldia mayor of Tegucigalpa and all the territory of its bishopric was annexed to the intendencia of Comayagua, and he adds that "this intendencia was divided into the districts or subdelegations following: Besides the district of the capital and of the settlement of the Mosquito Coast: Tegucigalpa, Gracias, Chinda, Tencoa, San Pedro Sula, Yoro, Olancho, and Olanchito. *Thus was constituted and organized the*

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intendencia, having always the boundaries it had before, because they were not modified either by the laws or by its authorities." Page 76.

In this final division, according to Dr. Membreño, it is not included in any of the territories which the delegation of Honduras now claims.

The foregoing shows that the said delegation had never entertained any such claim: it was enough for her to obtain all the territory included between the Western slopes of the mountains and the river Ulúa: her aspiration was confined to this until a very short time ago.

Guatemala, on the contrary, has not invented her claims for this conference, as Dr. Bonilla says. For a long time she has maintained it. During the colonial times, this question was latent among the Spanish officials, and ever since obtaining her autonomy as a sovereign nation, she has insistently preserved and sustained her claims to that portion of territory. For this reason when negotiating with Spain her own recognition, Guatemala made the generalization to which the treaty of 1866 refers,[1] in order to maintain alive her rights to the territories illegally occupied by Honduras. And it must not be said that it was customary to insert such statement in all treaties of the same nature and that the treaty of Honduras contains it also, as Dr. Bonilla asserts in his rejoinder. No; in this particular the memory of the distinguished representative of Honduras has failed him, because his country neither has such a clause in her treaty with Spain, nor is this treaty one of expressed recognition but merely a treaty of peace and friendship, which was concluded at Guatemala in the year 1894, on November 17, and can be found on page 155, Volume XI of the Collection of Spanish Treaties, published by the Marquis de Olivart.

I must not overlook, following the series of inaccuracies in which Dr. Bonilla incurs, the unfounded assertion which he makes that his country, with the approval of the King and of his delegates, was in possession of the whole or part of the territory which it claims on the other side of the Motagua from the time of the conquest (1524) until such possession was expressly sanctioned by the royal decree containing the appointment of Don Juan de Vera, and that therefore it had the possession in fact and in law for nearly three centuries, up to the time of the Independence, adding that such rights could only have been destroyed by another similar document of equal or greater force.

Precisely, Dr. Bonilla, it is by documents of much more force than those exhibited by your excellency, that is to say, by the royal

[1] Cited in our memorandum of reply.

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decrees of 1563 and 1564, that I have proved the undisputable rights of Guatemala, and the value of those decrees can not be destroyed by the maps of the eighteenth century to which you refer in your reply, for the latter have no value before the decisions of the Spanish Monarch. The reason is very simple: the maps have not the character of law, and the royal decrees have it: cartography is considered as evidence only when employed in the absence of express provisions setting out the boundaries; therefore, the maps which your excellency suggests as a whole, must not be taken into consideration, and for that reason, I omit to ask you to enumerate them that I may examine them, it being sufficient for me to add only to the reasons already stated, that the basis upon which a good map must rest is the accurate demarcation of the States, and this is not made by the caprice of cartographers, but upon the legal provisions existing in regard to the same. Of those which are cited by the worthy representative of Honduras have not been drawn upon such provisions as the alluded royal decrees of 1563 and 1564, the only ones demarcating boundaries, are capricious maps not even worth the while to mention.

After this consideration, I shall proceed to examine the pretended possession of Honduras.

I have already shown that the foundation of San Gil de Buena Vista did not give a right to dominion nor even possession to Honduras, because its new foundation was made by the Governor of Guatemala; and I have already proved by well-founded arguments and reasons that the Honduran representative did not succeed in refuting my assertions in that respect.

I take this therefore as a basis to refute the assertion made by him to the effect that his country went into possession in law and in fact as early as 1524, which is the year when the conquest of that portion of Central America began.

I shall continue to analyze the historical narrative contained in my memorandum of May 30, although I think, as Dr. Bonilla does, that the history of that time can not supply by itself alone a solution for the present controversy; but I will do so, however, in order to show that my appreciations are correct, that the refutations of my opponent are unfounded and that the assertion that his country has possessed the territory that she now claims is inaccurate.

Based upon historical facts, on which all authorities on the matter agree, I have shown how the Province of Honduras was constituted, ever since the immortal discoverer of the New World set foot on Central American soil until the year 1530, stating her boundaries are as follows: on the east, Cape Gracias a Dios; on the north, the Atlantic Ocean, including the Islands of La Bahia; on

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the west, the territory in which the town of Naco, situated at the foot of the mountain range, known as Merindon, Grita, Gallinero, Espíritu Santo, and Omoa was, and on the south, a line not well defined, but very far from Mar del Sur.

Señor Bonilla did not wish to follow me step by step in my historical narrative, and in this important period, because it is the period of formation of the Province of Honduras, he has abandoned me, confining himself to saying that what I have asserted is incorrect, because Gil González Dávila had founded San Gil de Buena Vista, my distinguished opponent forgetting that from the same historical citations which he makes must clearly follow that when that town really existed in a stable manner, was when the conquerer of Guatemala populated it anew.

The silence of Dr. Bonilla on this point shows that he has nothing to oppose to my assertions, and they remain unimpaired with all the value given to them by history.

In the same way the representative of Honduras overlooks the decrees issued by the King previous and subsequent to the arrival of Gil González Dávila and the appointment of Salcedo, decrees to which I referred to show that they had not altered the situation of the Province of Honduras, as regards her boundaries with respect to that of Guatemala, and that the latter had remained on the western side of the mountain range and the former at the foot of the same mountain range on the eastern side.

That attitude of the Honduran delegate affirms my assertions.

Following the historical narrative, I showed in my memorandum under date of May 30 that the territorial controversy between Guatemala and Honduras had begun subsequent to the year 1530, and I studied there the origin of the said controversy.

It is not necessary to repeat what has already been stated in this regard in my said memorandum, and it is sufficient for my present purpose to refer to the facts that my opponent endeavors to contradict, stating that I had not intended, as Dr. Bonilla assumes, to base the rights of Guatemala on these historical events, which I have taken into consideration, with the only purpose to show the origin of the question, but that I grounded on true and real titles.

The honorable Honduran delegate says that the arrival of Alvarado in his country is easily explained, because that was a time of disturbances, rivalries, and conflicts of ambitions among the conquerors. No, Dr. Bonilla, that is not explained by those reasons; it is explained by the miserable state in which the Province of Honduras was, which necessitated the help of the Province of Guatemala in order to continue to live.

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Allow me to quote what, upon this particular subject, is said by the historian of Honduras, Don Robustiano Vera, in the book already cited, which he dedicated to your excellency. He says: "as it is readily seen, the backward state of Honduras was noticeable. Poverty was everywhere, and furthermore, there was no respect for authority, and crimes of all kinds were committed * * *."

"The cruelty of Cereceda was already intolerable in Honduras. Everybody was exasperated by it. They wished nothing less than to dispose of him. The royal treasurer, who was Diego García de Celis, would pacify them, and promised them to call upon Don Pedro de Alvarado to intervene in their favor. Celis went to Guatemala where Alvarado used to reside, and told him the afflictive situation of the Spaniards who were established in Honduras, and requested him to come to their help.

"Alvarado accepted this idea * * * he delayed his journey to Naco because he had to enlist some people, and in the meanwhile the inhabitants of Honduras, tired of waiting for him, seized upon the idea of abandoning that village, but Cereceda opposed it as well as that of their taking with them their Indians, because he himself had done the same thing when he left Naco. The colonists were incensed with rage and desperation by this measure of Cereceda, and failing in their obedience to him, they started on their march. They had not gone two leagues when they learned by some Indians that many Castilians were coming by the road of Guatemala, and they immediately returned to Naco, because they thought it was Alvarado. They had not been mistaken. Cereceda then resigned the governorship, in order not to meet and be reprimanded by Don Pedro de Alvarado, who accepted his resignation and appointed law officers and made provision to pacify the country. These events took place about the year 1536, and with this, things were also arranged in Honduras. A new era began for these unhappy settlers."

Señor Bonilla wishes us to believe that Alvarado founded the towns and villages of Gracias a Dios, San Pedro Sula and Puerto Caballos, while he was governor of Honduras, by virtue of the arrangement made with Montejo. That is not so.

I have shown that the conqueror of Guatemala went to the rescue of Honduras in the year 1536, and on that occasion he founded the towns and villages already mentioned; therefore, he did it before the agreement concluded with Montejo, which took place in the year 1539, and he did it with elements belonging to Guatemala, as it is shown by what the historian de Vera says: "*Alvarado afterwards sent the greater part of the people whom he had taken to Honduras under the command of Capt. Juan de Chavez, to search for an appropriate site to found a new town*, and after crossing mountains and traveling many leagues, a level stretch of land was found

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through which a river flowed. All of them exclaimed 'Gracias a Dios,' (Thanks to the Lord). There was founded a village, which they called by that name."

"*Alvarado divided the lands among the colonists and sent for cattle and other things to give life to the new colony.*

"Afterwards he founded the village of San Pedro Sula."

So that Alvarado founded those towns by the efforts of Guatemala and he divided their lands among the people whom he had taken there from Guatemala.

He went to Spain, and in the meantime the King appointed Montejo governor of Honduras on account of the resignation of Bishop Fray Alonso de Guzman, to whom this office was given at the death of Diego Albitez. Montejo, at first did not want to accept, because he considered that the condition of Honduras at the time was ruinous; but when he learned that Alvarado had founded the new colonies already mentioned, he conceived the idea of exploiting them, although without any right for the purpose, and he accepted, incited by such an idea.

Montejo possessed himself unduly of the towns founded by Alvarado, and took away the lands from the persons to whom Alvarado had apportioned them. Alvarado learned of this in Spain and made representation of it to the King, who issued a royal decree recommending to the bishop the settlement of the differences between the two adelantados.

The occupation of those towns and villages was therefore the cause of the differences between Montejo and Alvarado, differences which would not have sprung up if the said towns and villages should have belonged to the Province of Honduras, because in that case Montejo could, at his discretion, as governor of Honduras, dispose of the lands, and Alvarado would have had nothing to claim. But this was not so, as I have already said, and for that reason he went to the King, who recognized his right, and gave orders to the bishop of Honduras to bring them to an understanding.

On this point, Milla, the historian, on the same page, 299, of the citation of Dr. Bonilla, confirms my assertion when he says: "Among the royal decrees which the latter—Alvarado—was carrying, there was one in which the bishop was recommended to adjust the differences between the two adelantados, *which originated from the resolution of Montejo to take away the lands from the persons to whom three years before had been apportioned by Alvarado.*"

The same Zaragoza, a historian cited by Dr. Bonilla, confirms in the paragraph quoted by the latter as Annex No. 1, that such differences *were on questions of boundaries between the two Governments.*

I shall not need to insist any longer on this point to fix with historical accuracy the time when the territorial contention between

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Guatemala and Honduras is begun; nor will it be necessary to have recourse to any other historians in order to determine that the cause of that boundary contention was the improper occupation by the governor of Honduras, Montejo, of the towns and villages conquered by Alvarado. I lay stress on this historical fact because it explains the possession exercised by Honduras over this part of our territory.

Montejo and Alvarado reached an understanding, as it is shown by the second document that under number 3 is attached by the Honduran representative, and the Government of Honduras went to the former. From that fact it can not be concluded that Guatemala should have ceded to Honduras her rights over the villages and towns founded by Alvarado, because the negotiations referred to the exercise of his office, which did not carry with it control over any territory because this belonged to the King of Spain and not to the governors. Thus in the dominical determination the agreement already mentioned could have had no influence whatsoever; it had such influence for the temporal suspension of the boundary question between the two Governments, because they being in the same person it was the same power who exercised it.

Nor does the letter addressed by Alvarado to the Consejo de Indias, which Dr. Bonilla cites and copies under Annex No. 3, mean anything, for two reasons: First, because a letter can not take the place of a title deed of ownership, nor does it create any right according to colonial legislation. A law of Indies sustains the principle that the utterances of the King in letters in answer to questions of officials, does not prejudice the jurisdiction. And if this is so with regard to the royal correspondence, it must be more rightly so when referring to letters of inferior employees addressed to the sovereign. There is a reason—the actions creating any right can only emanate from the latter and must be expressed in the form provided by law.

The said provision, which is Law XII, Title I, Book XI, so far as material, says: "The presidents and visitadores of our royal audiencias, included within the districts which belong to Peru and New Spain, write to us sometimes upon questions of government, exchequer, conservation, and utilization of the Indians, and other matters of quality which do not refer to the administration of justice or commissions entrusted to their charge, and *under any answer of ours they pretend that we have placed in their charge those affairs upon which they wrote us. We declare and decree that just because we have answered some of the things already mentioned, to the presidents, governors, or visitadores, it is not our intention and will to give them more jurisdiction than what belongs to them in matters of justice, nor to take away that of government which belongs to the viceroys.*"

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Second. Because that document seems not to be authentic, the circumstance of its being dated in Guatemala on November 20, 1536, which is not possible, rendering it doubtful, because Alvarado, according to the assertions of historians,[1] sailed in July or August of that year and returned to America three years later. Therefore the contradiction existing between the date of the latter and the departure of Alvarado, gives to the former the quality of being apocryphal and renders it invalid in the eyes of history.

The two documents to which I refer, as well as a description which is made in an anonymous old manuscript upon the demarcation and division of the Indies—Annex No. 4 of the Honduran reply—have been invoked with the view of establishing that the Government of Guatemala had no coast on the Northern Sea (Mar del Norte).

I have already shown the inefficacy of the first two documents, and I shall now rebut the document referring to the description of the Indies, not with an anonymous manuscript, which, however old it may be, can not have an equal value with a work under the authority of one person, but with the dictum of a member of the Consejo de Indias, in a book approved by the King, on the previous report of the said council. I referred to the "History of the Conquest of the Itza, Reduction and Progress of the Lacandon and other Nations of Uncivilized Indians" (Historia de la Conquista del Itza, Reducción y Progreso de la del Lacandón y otras Naciones de Indias Bárbaros), written by Don Juan de Villa Gutiérre Soto Mayor, reporter of the royal and supreme Consejo de Indias. In the said book, Chapter III, page 163, it is said, on the margin: "News given by Justice Urquiola." Afterwards, in the year 1679, by news given by Don Juan Urquiola, justice of the audiencia of Guatemala, to the royal Consejo de las Indias, said: "That in the lands of the four bishoprics of the district of the said audiencia, which are Guatemala, Chiapa, Nicaragua, and Honduras, all of which have their greatest part on the Northern Sea" (Mar del Norte).

It is seen therefore that it is incorrect to say that the Province of Guatemala had no coast on the Northern Sea (Mar del Norte); she had such a coast from the Ulua to Yucatan, only that from the said river to the mountains, Honduras took undue possession of the said coast since the time when Montejo was governor, Guatemala having the remainder of which she is in part in legal possession as it is publicly known.

Señor Bonilla, with a lack of equity not very easily explained, wonders that Guatemala should claim an extension of territory in-

[1] Milla says: "He sailed in the last days of July or the beginning of August, and while he was going to Spain * * *" *Op. cit.*, page 278, Volume I. Vera says: "About the middle of July of 1536 he finally set sail, as he said, and he went to Spain." *Op. cit.*, page 96.

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cluding the harbors of Cortes and Omoa, on the Atlantic, and the departments of Cortes, Santa Barbara, Copan, Ocotepeque, Gracias, Intibuca, La Paz and Valle, and part of the departments of Comayagua, Tegucigalpa, and Choluteca, with the port of Amapala on the Pacific, and he does not wonder that he himself pretends to wrestle from Guatemala, for his country, all the northern coast which she has at present, with the harbors of Santa Tomas and Barrios, her interoceanic railroad, Livingston, Izabel, and all the towns of Golfo Dulce, as well as those which are situated on the western slopes of the mountain ranges.

It must be confirmed that if the claim of Guatemala is a large one, the claim of Honduras is of greater transcendency, there being between the two the following differences: First, that the claim of Guatemala is founded upon royal and perfect titles according to law—royal decrees of 1563 and 1564—while the claim of Honduras has no foundation whatsoever; that is to say, Guatemala has justice and reason in support of her claim whereas Honduras lacks both justice and reason in hers; and, second, that Honduras having one hundred and sixty leagues of coast on the Caribbean Sea, she intends to take away from Guatemala the thirty which now remains to her.

And, according to Dr. Bonilla, we Guatemalans must be satisfied and thankful to Honduras that she does not claim the territory of the districts of Chiquimula and Zacapa; but she does it as deference to the mediator and because she does not wish to wound the feelings of the Guatemalan people, because it would be understood that if such a claim should be seriously made, *it would mean the purpose of seizing by force the territory subject of the claim, by taking advantage of the first propitious occasion.*

I am really sorry that such sentiments should have been expressed, the scope of which I interpret thus: If she does not make a formal claim to Chiquimula and Zacapa, because to make a formal claim would indicate the purpose of seizing by force the territory subject of the claim, it is clear that having made a formal claim to carry the boundary of Honduras up to Belice, indicates the purpose of seizing by force that territory on the first occasion.

If we have come here, Señor Bonilla, with the purpose of arriving at an understanding between our countries, it does not seem the most proper and advisable thing to utter expressions which involve a threat of taking by force the territory under dispute, because such a thing is not conductive to the desired effect, since the Guatemalan people have always given proof of not being afraid to defend their rights, and it can only give rise to the thought that Honduras has not the purpose to come to a conciliatory settlement.

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Dr. Bonilla also incurs in a lack of accuracy when he maintains that he considers it a great error the assertion which I make in my memorandum, that with the conquest of Copán, that region fell under the dominion of Guatemala. Frankly I do not know how the worthy representative of Honduras can regard this as an error. Guatemala, with the towns of that district had also conquered Copán, In that year Copán was among those who were up in arms and like all the others it was subjected and reconquered. By the laws and customs in force at that time, conquest was one of the means to acquire dominion. All the conquerors acquired rights over the conquered territories, why should Guatemala be the only exception? That is not just. But the most strange, the most original thing is that Señor Bonilla should wish to give to conquest acquisitive effects of dominion, claiming that all those territories belonged to Honduras, because, departing from history, he asserts that Gil Gonzales Dávila conquered San Gil de Buena Vista, and denies them to it, when facts as clear as the conquest of Copán confirmed by the very citations of Milla and Juarros made by the honorable delegate of Honduras are in question. Indeed, he says, the aforementioned historians both assert that Hernando de Chavez, and Pedro de Amalín, were sent by Pedro de Alvarado to subject the towns of Chiquimula; and after the conquest of this Province, they decided to proceed to Copán in order to punish the Chief (Cacique) Copán Calel, who had instigated the uprising of his neighbors. The honorable representative of Honduras concludes at that point the reference which he makes to Milla, the historian; but I am to continue it in order that it may be seen what the result was for the Guatemalan forces from the punishment inflicted upon Copán Calel. "The town—referring to Copán—says Señor Milla, was conveniently fortified and prepared to oppose an obstinate resistance to the enemy. Protected on one side by the range of mountains, and on another by deep moats and trenches, the Prince who ruled the country, under the title of Calel, considered that the position was impregnable and refused with haughtiness the proposals of peace made to him by the leaders of the Spanish army. The latter did not know where to attack the place; but their hesitation vanished when they were advised by a traitor that the moat which protected a certain place was not equally deep throughout its length, as there was a stretch of it through which the besiegers could open up a passage to the town. They attacked them through that point, and those from Copán came to defend it, and a struggle issued which, if it was not, according to the hyperbolic expression of Juarros, the bloodiest and most terrible witnessed by the centuries, resulted in grave losses to the gallant defenders of the place and to the no less brave Spaniards who stormed the town. *The result was, as almost always,*

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favorable for the latter who defeated the natives and immediately occupied the principal part of the city. The calel withdrew to some quarters where he had a body of reserves, and continued to fight, although unsuccessfully, as the Castilians threw him out from that place also. And even at this point the spirit of the gallent native leader did not falter before such repeated defeats, and taking refuge in the castle of Sitalá, he called to his help the lords of the neighboring towns, and with a new army he twice attempted to recover the town. Fortune was at many times adverse to him, *and at last he had to surrender and recognize the authority of the Sovereign of Castile.*

It is seen, therefore, that the Guatemalan conquerors, by authority emanating from the King, took possession of Copán and all the other neighboring towns, acquired as a result of the bloody battles, which compelled Juarros to qualify them as the bloodiest witnessed by the centuries. I do not understand, therefore, on what Señor Bonilla can base himself to consider as an error the assertion that Guatemala primarily acquired those territories by the right of conquest. Will it seem just to the worthy representative of Honduras, that Guatemala, having shed her blood and spent her resources in those enterprises of colonization, the territories acquired through them should be the property of Honduras? The patriotism of a man may be great; his desire to procure for his country the greatest worldly goods may be immense, but those beautiful sentiments and desires can never legitimate an injustice. Let us, above all, be just.

In my memorandum of May 30, I referred to the conquest of Copán as a historical and juridical fact in order to determine which were the territories of Guatemala and Honduras in the year 1530, and I maintain that Honduras was then situated, on the eastern side, at the foot of the mountains, and that Guatemala continued to have dominion and possession of all the western part and of all the territory which extends to the west, Copán, therefore, coming to be Guatemalan territory and to constitute at that time the eastern boundary of the Province of Guatemala.

In this respect Milla says in his work already cited, Volume I, page 222, speaking of the conquest of Copán, "while these events were happening *on the eastern boundary of the Province of Guatemala.*"

There is no doubt whatsoever upon this point: In the Province of Guatemala was then included that town, of which afterwards Honduras took undue possession in fact, as she did as regards other towns founded by Alvarado, before the conclusion of the agreement with Montejo.

I shall follow the course of my historical narrative in order to continue to refute the arguments of Dr. Bonilla.

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The question of boundaries between the two Provinces, as I have already said, arose from the moment that Montejo occupied the towns conquered and founded by Guatemala: It was not agitated while Alvarado was in charge of the two Governments, but it arose again when these two Governments were under the direction of different persons.

I have never sustained that Guatemala, after the occupation by Montejo, was in possession of the same. No; I have sustained that Honduras has unduly had possession of them by the illegal and unfounded occupation accomplished by Montejo, and that is proved precisely by the documents that the representative of Honduras enumerates in his reply, page 9.

By the first of these documents, dated as early as 1536, the year when Alvarado founded San Pedro Sula, Gracias, etc., it is shown that he divided the lands in the said places. Alvarado then did not have the government of Honduras, which he acquired, as Señor Bonilla himself confesses on page 7 of his reply, through the arrangement with Montejo. How, then, could that division have been accomplished in places which did not appertain to him? It would have been impossible, and if he did it, it was because those towns belonged to the Government of Guatemala, which was his own.

I have shown that the differences with Montejo arose from the fact that the latter, while Alvarado was in Spain, occupied those towns and did not respect the apportionments made by the Adelantado.

Therefore, the document to which I have referred shows that those towns and villages were situated within the boundaries of Guatemala when her governor could dispose of the lands situated therein.

With regard to the documents marked from the letter B to the letter R, Señor Bonilla only refers to them by title and does not even transcribe them, for which reason and in view of the fact that I have found that almost all of the historical citations which he makes are incomplete, I find myself compelled not to consider them, but I will suggest that even supposing that from their total context should appear that Honduras has had possession of the said places, that does not show anything as regards dominion, as none of those documents has the character of a royal title, of greater force than the royal decrees of 1563 and 1564 which are the titles of Guatemala.

I shall now proceed to examine the titles which Guatemala has to maintain her territorial claims, in connection with the arguments advanced by Dr. Bonilla to refute them.

I have already said that by the conquest of Copán and the founding of San Gil de Buena Vista, Gracias a Dios, San Pedro Sula, and Puerto Caballos, carried to a successful end by the conqueror, Pedro de Alvarado, Guatemala acquired rights over those territories; rights

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which were subsequently recognized by the Queen of Spain when demarcating the boundaries between the two Provinces in the royal decrees of 1563 and 1564.

Dr. Bonilla, in his reply and rejoinder, endeavors to detract from those rights, asserting that the royal decree of 1563 is a document without any value whatsoever, for three reasons, to wit:

1. Because it was tacitly abrogated by that of August 23, 1745, which ratified the boundaries of the Province of Honduras up to the limits of Yucatán, as they were since the time of the agreement between the Adelantados Montejo and Alvarado;

2. Because it was also abrogated by the royal ordinance of intendentes by which it was declared that the boundaries of the Province and the respective bishoprics are the same, when it was applied to the Kingdom of Guatemala in 1786; and,

3. Because that royal decree was expressly repealed by the one issued at the escorial on May 17, 1564.

I am going to show that the royal decree of 1563 has neither been abrogated nor repealed by any of the acts to which the distinguished representative from Honduras refers.

In my memorandum of refutation to that of Dr. Bonilla, I made an extensive study on the decree which contains the appointment of Don Juan de Vera; from it follows that such a decree does not refer to the demarcation of boundaries, but only to the granting of jurisdictions, general as regards the Province of Honduras, and special, very special, in respect to a portion of the territory of the Province of Guatemala.

At that time I showed that the specific jurisdictions granted to a governor did not modify territorial demarcations; I corroborated my assertion by the opinion of the distinguished Spanish publicist, Don José Canalejas, and I showed that, by the appointment of Don Francisco Cagigal de la Vega, the Spanish Monarch had deprived Señor de la Vega of the special jurisdiction which had been granted to him as part of the Guatemalan Government.

Now, inasmuch as Señor Bonilla intends to sustain that the appointment of Don Juan de Vera abrogates the royal decree of 1563, I crave leave to advance some considerations on this matter.

In the first place, I must indicate that it is a principle of legislation universally recognized that a law is not impliedly repealed by a subsequent one if there is not any inconsistency between them. Implied repeal takes place when the new law contains provisions which cannot be reconciled with those of the old. This principle is founded on the following reasoning: two laws upon the same matter which are inconsistent with each other, cannot coexist without turning legislation into anarchy.

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"The derogation of a law by another law, says Dalloz, Lois 539, is founded on "*the maxim posteriora prioribus derogant,*" which must not be understood in a sense too absolute nor too general. Thus, it is a principle that implied derogation of a law is not assumed: he who alleges the derogation has the burden of proof to show the inconsistency between the old law and the new one. It has been adjudged in that sense, *that it is necessary that there is a manifest conflict between the two laws for the new one to repeal impliedly the old; and that there is such inconsistency that it shall be impossible to execute the second law without abolishing the first.*

What inconsistency, I ask, is there between the royal decree of 1563, which demarcates the boundaries of the Provinces of Guatemala and Honduras, and the one which grants a specific jurisdiction to a colonial official on one part of the territory of the first of these two Provinces? Shall the territorial boundaries be taken as blotted out by the fact that a person be entrusted with a special commission in a specific place of the territory to which the said boundaries refer? Will it be impossible that the said official shall be able to discharge his commission because the boundaries are fixed and determined?

No; that would be a judicial absurdity; but even conceding it, the royal decree relating to the appointment of Don Juan de Vera, could not have repealed that of 1563 for these three additional reasons:

1. Because the jurisdiction conferred upon de Vera, over the Guatemalan territory, as I have already amply shown, refers to concrete and specific purposes, and it is a principle recognized among the American nations that the special commissions entrusted to functionaries over territories not subject to their authority, do not mean territorial aggregation.

But if the opinion of Señor Canalejas should not be sufficient for the purpose, Dr. Bonilla will please notice that of the distinguished Colombian, Don Ricardo S. Pereira, commissioner for his country to study the boundary questions of Colombia.

He says: " * * * Indeed, not only once Spain was compelled to grant the exercises of certain powers in a foreign jurisdiction, to the governors of the Province of her vast colonial empire in America; *but these very special commissiones never imply aggregation of territories, as the boundaries of the latter were always fixed by very clear definite and minutely precise Royal Decrees.*" (1)

2. Because even assuming that it could have demarcatory effects, the special jurisdiction granted to Don Juan de Vera, was revoked by the appointment of Dan Francisco Cagigal de la Vega, communi-

[1] Documents on boundaries of the United States of Colombia, copied from the originals in the Archives of Indies, by Ricardo S. Pereira, page 17, Library of Congress, Washington, Book F 2281—B 7—V 4.

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cated to Don José de Araujo y Rio, in the year 1747, and as it was not in force at the time of the independence, it is evident that it could not have been taken into consideration; and,

3. Because the treaty of 1914 requires that in order that a demarcatory document as the royal decree of 1563, may be destroyed by another, that this be of an equal class and of greater force, and we have already seen that the appointment of Don Juan de Vera does not meet these two conditions.

It is, then, perfectly shown that the aforesaid decree of appointment of Don Juan de Vera, does not abrogate or repeal the royal decree of 1563.

I shall now demonstrate that it was not abrogated either by the royal ordinance of intendentes; but before doing this, I shall not fail to manifest the surprise with which I see now the Government of Honduras invoking that body of laws when in the year 1847 the said Government maintained that it could not be taken for demarcating or fixing any boundary line. How can it, Dr. Bonilla, be conceived that if the said body of laws can not be taken for that purpose, they be sufficient for repealing a legal provision, which can thus be used for that purpose?

These ordinances do not in effect fix any boundary line; they confine themselves to establish the principle, which is not new at all, by the way, as it was included in the ordinance of Barcelona, that an effort must be made to harmonize the jurisdictional limits in civil and ecclesiastical matters to the extent that if one was determined, the other could be equally known and ascertained. That was all; there was fixed a general rule to be applied in case one jurisdiction should be established and the other still uncertain. So that therefore if the civil boundaries of the Provinces of Guatemala and Honduras were already fixed in a clear manner, the ecclesiastical jurisdiction had to be harmonized, according to the aforesaid ordinance, with the civil jurisdiction already established beforehand. It is very far from every possibility therefore, to sustain that the said body of laws abrogated the royal decree of 1563.

Furthermore, the aforesaid decree was incorporated into the Compiled Legislation of Indies, which left it in force and with all its value and efficacy in conformity with the law which declares the authority which the laws of the Compilation must have, and prescribed that the decrees, ordinances, etc., are left in force in so far as they are not in conflict with the said laws.

The code of intendentes did not substitute the compilation nor the royal cedulario incorporated in the latter, and much less did establish territorial alterations. The ordinances were nothing but legal provisions, to administer under better conditions the departments of the exchequer, police, and war, creating for the purpose special

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functionaries who were called "gobernadores intendentes." The compilation and the royal cedulario, continued to be the fundamental code, a sort of colonial constitution, the prescriptions of which must be observed by the new organs of administration, called intendentes. The ordinances came to be, therefore, the procedure or execution part. Hence the preamble of the ordinance of 1786, says:

"I have resolved upon well-founded reports and after mature examination to establish in the Kingdom of New Spain, 'Intendentes de Exercito y Provincia' in order that, invested with authority, and having competent allowances or salaries, they shall govern those towns and inhabitants in peace and with justice, *in the place* which is entrusted to them and placed in their charge by this instruction, take care of their police and collect the legitimate interests of my royal exchequer, with the integrity, zeal and vigilance prescribed by *the wise Laws of Indies.*"

And as into these laws were, as we have shown, incorporated the royal decrees not in conflict therewith, it is evident that the royal decree of 1563, which is neither in conflict with the said laws nor derogated thereby, was also incorporated therein and can not have been, according to the preamble of the aforesaid ordinance of intendentes abrogated by the aforesaid body of laws as it is claimed by Dr. Bonilla.

There are precedents of the Spanish Government sustaining the principle that the ordinance of intendentes, which is a general provision made for a different Kingdom does not repeal a particular provision.

The Secretary of War of Spain, in his report to the Secretary of "Gracia y Justicia," relating to the question of jurisdiction presented by Don Ramón Anquiano, gobernador intendente of the Province of Comayagua, to the captain general of Guatemala, Don Antonio González Saravia, respecting the exercise of jurisdiction over the Mosquito Coast and the Colony of Trujillo, expresses himself as follows:

"Nor could they dispute it afterwards (he refers to the jurisdiction which the captain general of Guatemala had over the affairs of the said places): In the first place, because the royal order by which was communicated to Guatemala the ordinance of intendentes of New Spain in the year 1786, provided for its enforcement as far as applicable; and certainly it is not applicable to the military posts of Mosquito; in the second place, because a general provision *as the ordinance of intendentes, prescribed for a different Kingdom, does not repeal the particular provision made for the Mosquito Coast in that of Guatemala.*"[1]

[1] This report may be found in the book published by the Marquis of Peralta under the title of "Costa Rica and the Mosquito Coast" (Costa Rica y la Costa de Mosquito), on page 491.

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From the foregoing it is seen that the royal ordinance of intendentes of 1786 could not have abrogated the royal decree of 1563.

We shall see now whether it has been derogated by the royal decree of May 17, 1564, and whether, adopting the phrase of Dr. Bonilla, the edifice erected by me crumbles to the ground.

Unfortunately for the interests served by the distinguished representative of Honduras, the decree of September 8, 1563, *was not derogated* by the decree issued in May 17, 1564. On the contrary, this decree did nothing more than to complete and confirm the other. The edifice of Guatemala, therefore, is not fallen to the ground; it is reinforced by more solid foundations that those which it previously had.

To show this is very simple: The two royal decrees are there, and for the purpose it will be sufficient to examine them.

I am going to prove that the royal decree of 1563 was not derogated but reinforced by that of 1564; I shall for this purpose examine the question from the point of view of law in general. I am going in the same way to prove that the royal decree of 1563 can not be weakened by that of 1564, according to the treaty in force, a law which, being supreme, can not for any reason be dispensed with.

I shall transcribe the material parts of the three royal decrees in question, and I do not do it *in extenso*, because Dr. Bonilla has done so already.

Decree of September 8, 1563, relative to the transfer of the audiencia of Guatemala to Panama, establishing the boundaries of the said audiencia. The material parts of the said decree are as follows: "We have ordered that our President and Justices in the aforesaid city of Guatemala shall go immediately to the city of Panama, and we have fixed for them as their boundaries and district the city of Nombre de Dios and its territory; the city of Nata and its territory and the governmental district (gobernación) of Veragua, and on the Southern Sea (Mar del Sur), the upper coast toward Peru to the port of Buena Ventura, exclusive, and on the lower coast toward Nicaragua to the Bay of Fonseca, exclusive, and the hinterland, all the Province of Nicaragua and Honduras to the place of Jerez de la Frontera, inclusive, and on the Northern Sea (Mar del Norte) to the River of the Ula, exclusive, and from this point toward Panama must be the district of the audiencia of Panama, both by land and by the southern and northern coast, and from the said point to that of New Spain, including the village of Gracias a Dios and San Gil of Buena Vista in the Province of Honduras, must be the district of the said audiencia, etc., etc."

Decree of September 8, 1563, relating to the boundaries of the Province of Guatemala, there is the following in the margin: De la-

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ration of the district and boundaries which the Province of Guatemala is to have. The material part is as follows: "Therefore we declare and order that the said Government of Guatemala shall have for its boundaries and district from the Bay of Fonseca inclusive and the River Ula inclusive, with the town of San Gil de Buena Vista and the village of Gracias a Dios and the Provinces of Verapaz and Chiapa, and we order all our governors, etc., etc."

Decree of May 17, 1564, the material part says: "Therefore we declare and order that the said Government of Guatemala shall have for her boundaries and district *from the Bay of Fonseca inclusive, to the Province of Honduras exclusive, in a straight line, and on the part which bounds on the Province of Honduras shall remain with the boundaries which she has had until now, and* the Provinces of Verapaz and Chiapa, and we order to all our governors, etc., etc." Further on it says: "Which we order to be kept and complied with notwithstanding another provision of ours, which we made in respect to the said boundaries in the city of Zaragoza on the 8th day of September of last year, 1563, because it is our will that not the latter but this which we now prescribe be kept and complied with, etc., etc."

According to Savigny, the authority who has given the most precise and best rules for the interpretation of laws, I shall examine those provisions, applying to them the rules of logical and grammatical interpretation; rules which were also clearly consecrated for a long time by a law of Partida, when declaring, "That to know the laws does not consist only in knowing their words, but in giving them their true meaning;" and it is well known that in order to attain this object attention must be paid both to the meaning of the words and to the logical reason of the law.

In the light of these sound principles, and taking the three provisions which I have just mentioned in their logical connection and grammatical meaning, I shall carefully examine them, in order that it may be seen how the royal decree of 1564 instead of derogating that of 1563 confirms it and complements it.

Indeed, the decree of 1563 fixed the boundaries of the Province of Guatemala from the Bay of Fonseca inclusive and the River Ula inclusive. This demarcation was incomplete and deficient, because it only referred to the Bay of Fonseca, which leaves the territory of Guatemala, and the River Ula, which it equally leaves within the same. But as from the River Ula to the Gulf of Fonseca there remains a great territorial portion which did not belong to Honduras, all that great portion was left without demarcation.

That between the River Ula and the Gulf of Fonseca there is a great extension of territory can be shown by simply looking at a map, and that such an extension of territory did not belong to Hon-

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duras is shown by the same decree of 1564, because this decree in fixing the boundary says: "From the Bay of Fonseca inclusive to the Province of Honduras exclusive." The word to proves that the Bay of Fonseca and the Province of Honduras *did not touch each other*, but *were separate*. Therefore, the intervening territory has been left without a clear demarcation of boundaries which necessarily might bring about difficulties.

It was necessary to correct the defect. It was necessary to complete the demarcation, and that was what King Phillip II did by the royal decree of 1564.

By this decree it is established that the boundaries of Guatemala are from the Bay of Fonseca inclusive to the Province of Honduras exclusive, united by a straight line. This straight line, which was not stated in the decree of 1563, completed the boundary line, and is the only thing new established by the decree of 1564 for the demarcation of the extensive territory which had not been demarcated by the previous decree.

This is seen with such clearness, taking into account even the smallest details and words of the royal decree of 1564, which would be necessary to have a deliberate purpose of not accepting the truth in order not to gain the full conviction of my assertions.

Some considerations more will strengthen my interpretation. The royal decree of 1564 says: "From the Bay of Fonseca inclusive to the Province of Honduras exclusive, in a straight line;" by this was established a perfect demarcation as the Province of Honduras was demarcated by the royal decree of 1563, by fixing the boundary clearly and finally to the east of the River Ulúa. There was, therefore, no necessity of changing the boundaries which had already been fixed; to do this would have resulted in many disturbances without purpose, and the royal decree of 1564 did not do it, and for this reason it said: "And on the part that bounds on the Province of Honduras remains with the boundaries which she has had until now."

Now, which are these boundaries? I have already said that they are those fixed by the royal decree of 1563; that is to say, from the region that extends from the right bank of the River Ulúa, toward the west. This is still more clearly explained by the expressions of the royal decree of 1563 which fixed the district of the audiencia of Panamá. By that decree was established that on the eastern side of that river were *all the Province of Nicaragua and that of Honduras*. If, therefore, all the Province of Honduras was on the eastern side of the River Ulúa, it will be perfectly understood why the royal decree of 1564, which fixes the boundaries of the Province of Guatemala, says: "And on the part which bounds on the Province of Honduras remains with the boundaries which it has had

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until now." It employs the words "which she has had until now," in order not to leave any room for doubt and to signify that the boundaries with the Province of Honduras are the same which she has had until then; that is to say, the boundaries fixed by the royal decree of 1563, which I have already suggested.

I shall insist a little longer on this point for the sake of a better understanding. The words *which she has had until now* must necessarily refer to the boundaries which were already fixed at the time of issuing of the royal decree of 1564; that is to say, the boundaries which were marked out in the royal decree of 1563, both in the grammatical sense of those words and because no others had been fixed previous to this decree. Señor Bonilla understands it thus perfectly, and for this reason, with an intention which is not proper now to judge, in the course of his argument substitutes the words "until now," employed by the law, for the word "before."

Previous to the royal decree of 1563, no boundaries had been fixed for Honduras; there was only a law by which it was established that the Island of the Guanaja belonged to the Province of Hibueras. The boundaries were not demarcated by any royal provision, everything was indefinite, legally undetermined, both on the east and on the south as well as on the west. How then can be thought that the intention of the legislature in drawing the royal decree of 1564, which clearly refers to the boundaries fixed in the royal decree of 1563, would have been to disregard them, and refer to previous boundaries which were not in existence? This would have been an inconceivable absurdity. To abandon clearly and legally established boundaries and fall into the obscurity of that which is indefinite, would have been equivalent to making the condition of the American countries worse, which was in conflict with the policy of improvement followed in the Colonies by the Spanish Monarch.

Upon the other hand, that lack of consistency in the royal determinations, which would result from the fixing of boundaries for a Province and changing them within eight months, is also in conflict with the energetic and tenacious character of Phillip II, and with the eminently conservative tendencies which history recognizes as his.

Señor Bonilla maintains that the royal decree of 1564 repealed the royal decree of 1563, and he founds his arguments in the following words inserted in the former: "which we order to be kept and complied with, notwithstanding another provision of ours, which we made in respect to the said boundaries in the city of Zaragoza on the 8th day of September of 1563, because it is our will that not the latter but this which we now prescribe be kept and complied with. etc., etc."

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Can it be logically concluded from the words which we have just quoted that what was established by the royal decree of 1563 was derogated and annulled? I do not think so; on the contrary, I believe, that this second decree did nothing else than to confirm what had been established by the first, as I have already said, as I have shown and as I shall completely prove by the following reasons:

If the intention of the King had been to derogate by the royal decree of 1564 the provisions of that of 1563, instead of employing the long phrase that he used, he could have simply said: "the decree issued on September 8, 1563, being hereby repealed;" but he did not do so, because it was not his intention to repeal it; his intention was to prescribe that no other boundary should be kept and complied with except the complete and perfect boundary defined by the royal decree of 1564, notwithstanding the one which he had prescribed, and for that reason he said: "but this which we now prescribe be kept and complied with." The word *notwithstanding* (sin embargo) is synonymous of *non obstante;* it denotes that there is no obstacle, no hindrance, no opposition—that is to say, that the provisions of the royal decree of 1563 are not opposed to the provisions of the royal decree of 1564.

These words therefore do not repeal but rather confirm and consolidate the clear and complete line which is defined thus: Gulf of Fonseca; straight line from this point to the Province of Honduras, and hence the boundaries which the said Province "*has had until now*," that is to say, the boundary fixed by the royal decree of 1563, which was the River Ulua.

When the Kings of Spain wished to repeal any provision, they did it expressly as when derogating by the royal ordinance of intendentes—article 306—the laws on the cases of police, justice and treasury, which should be in conflict therewith, for which purpose the repeal is made in this form:

"And in order that all the provisions of this instruction shall have due and proper effect, I order and command my Supreme Council and Chamber of Indies, Royal Audiencias and Tribunals of the Contratación and of New Spain, its viceroy, captain generals, commanders in chief, military officials and corporals, ministers, judges and all other persons wholly or partly concerned, to adjust themselves exactly to this instruction and ordinance, executing it and observing it with the greatest exactitude as far as it lies within their powers and specially the said intendentes of exercito and provincia, and they shall deem everything contained therein as firm and perpetual law and statutes and keep it and enforce it without violation, notwithstanding any other laws, ordinances, establishments, customs or practices which there may be to the contrary, in so far as they may be to the contrary, *I expressly revoke them and wish them*

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to have no effect whatsoever; forbidding, as I do its interpretation or explanation in any sense, because it is my will that its words and express sense be strictly observed * * *"

Having examined those royal provisions in conformity with the rules of grammatical and logical interpretation, I shall proceed to consider them in accordance with the treaty of 1914.

The said treaty, Article VI, prescribes that there shall be taken into consideration "the lines demarcated in public documents not contradicted by others of equal nature and of greater force." Therefore, there is no doubt that the first and most necessary condition for the line demarcated in a public document, to weaken and destroy another of the same class, is that it shall be contradicted, that one line shall exclude the other. Now, this does not happen with the line demarcated by the royal decrees of 1563 and 1564; the demarcation established by the latter does not contradict but completes the one marked out by the former. I have already dealt upon this subject sufficiently and it is not necessary to insist upon it, but I wish to examine the royal decree of 1564 in respect to the treaty and in conformity with the interpretation given to it by Dr. Bonilla.

He says that such a decree repeals that of 1563, and that therefore the royal decree of 1564 is the one in force. In this decree, as it may be seen, it is said: "and on the part which bounds on the Province of Honduras remains with the boundaries *it has had until now.*" Hypothetically, and in order to adjust myself entirely to the interpretation of the representative of Honduras, ignoring the value of the words, I wish to assume for a moment that the boundaries "*which she has had until now*" are those which she had before the royal decree of 1563. What were they? We have seen that there were none, for there is no provision fixing them; in consequence there was no boundary line, and as, according to the treaty which is now in force, a well demarcated line, as the one established by the royal decree of 1563, is always of greater probatory force than an imaginary indefinite and nondemarcated line, the royal decree of 1563 would have greater value than the royal decree of 1564 in accordance with the said treaty in that part of it relating to the said line.

All these reasons are well understood by Dr. Bonilla; that is why he does not trust his theory of derogation, and in his rejoinder appeals to another argument so unfounded as that theory, but much more inconvenient for his country, because it gives rise to a supposition as to her position in this question.

I refer to her position, expressing that the royal decree of 1563 must not be taken into consideration, because it is demarcatory of a defined boundary. The Government of Honduras, in the year 1847 said that the royal ordinance of intendentes of 1786, ought not to

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be taken into consideration, because the said ordinance did not prescribe a demarcation of boundaries. Now it is said that the decree alluded to must not be considered because it contained such a demarcation. What shall we then take as your contention, Dr. Bonilla? Must a demarcation be taken into consideration, or not?

The treaty of 1914 in stipulating textually that "*the lines demarcated in public documents, etc.*" must be taken into consideration, furnishes the answer as given by the treaty of 1845 in respect to the ordinance of intendentes; but the case is that the high party on the opposite side, as she is devoid of reason and of right, does not adjust herself to any treaty, and those not acquainted with the honorableness and rectitude of her procedure, as I take pleasure in recognizing, might think that as a searching for the means of eluding compliance with the treaties.

My Government and the persons who compose its delegation in this case, do not think so; but we deeply regret such inconsistency of the Honduran position and we anxiously await her rectification in order to be able to apply the treaty in every respect as it must be done according to law, and not in such particulars only as may be beneficial to one or the other signatory, as it is attempted by my esteemed opponent.

Having advanced this consideration of an ethical character, I shall enter into an examination of the reasons alleged by the honorable delegate of Honduras in connection with the argument to which I have referred.

This honorable diplomat says that assuming that the decree of 1564 should not have repealed that of 1563, it would have been nonexisting by virtue of the treaties of 1895 and 1914, and he bases his assertions on the following reasons: Because the royal decree demarcated a definite line which requires no investigation. The best demonstration that even although the said provisions should be clear, it is necessary to study and discuss them, is the manner in which Dr. Bonilla interprets them and endeavors to nullify them. He adds that if Guatemala would have believed that such decrees were in force, she would have provoked a diplomatic discussion in order to obtain an agreement based upon the acceptance of the same, or would have appealed to arbitration or to war, if the former could not have been obtained, and she would not have created the joint technical commissions, nor would she have designated the city of Ocotepeque as the meeting place for the commissioners, nor would she have declared valid the works of the said commissioners.

Dr. Bonilla must allow me to refute one by one those arguments. What was the use of commencing by provoking a direct discussion between the two Governments? Was it not more practical to make a complete study of the documents, to carry out the technical works of

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engineering, taking into consideration the dominical titles of each country, and when all this data should be prepared, that the two Governments should enter into the discussion of the matter? Or is it, Señor Bonilla, that when there is a title of ownership the work of experts is unnecessary? Then, upon such a theory, there would be no need among individuals for the appointment of experts when the boundaries of two neighboring parcels of land is in question, because, as a general rule, each one is protected by a title deed of ownership which determines its extent and boundaries; but just as the individuals can not fix such boundaries without previously carrying out the geodetical operations of the case, with a greater reason, nations, although having clear and well-defined titles, could not either determine them without a previous study by technical commissions carried out according to the documents and upon the ground. Now, it is when the result of such work has been obtained, or when as in the present case, the effort has been useless, that the discussion between the Governments become appropriate and these were unsuccessfully attempted by us last year. And, Señor Bonilla, if after having followed those steps, and attempted to seize upon those means of solution, we have not been able to obtain it, and we have had to appeal to a friendly nation to find such a solution for us, what would have been the result, if prima facie we have begun a discussion from Government to Government? None, absolutely none.

The worthy representative of Honduras foreseeing this conclusion, adds that if the result of the discussions would have been null, it would have been possible to have recourse to arbitration; a recourse of which he immediately repents as is repentant the man who expresses an idea which is unfavorable to himself, and for this reason he adds right along that Honduras would not have accepted that recourse, because she can not consider as arbitrable the dominion over one fourth of her territory. You see, therefore, my distinguished opponent, that this recourse could not be productive of any result, because even before this case should arrive, your excellency refuses it in the name of your country.

The third recourse to which Guatemala, according to Dr. Bonilla, could have appealed, if she had thought that the royal decree was in force, is war; that is to say, she could have gone even to that extent, the fatal consequences of which we see to-day more than ever, rather than signing the treaty of 1914. She could have resorted to a death struggle between brothers rather than signing the treaty, and if she signed it, that is a proof that the decree is not in force.

Guatemala, Señor Bonilla, who in this matter professes very different principles than those, has a very high conception of human life and her policy has always been a policy of concord and peace.

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She will not appeal to war of her own volition; she shall know how to defend herself when she is provoked to it, but she will not stoop to give importance to the threats, with which, for lack of a better argument, it is intended to rebut her strong and solid arguments.

Can the fact that the city of Ocotopeque should have been designated as the meeting place for the commissioners, have any importance? What argument can be drawn from that fact to show that Guatemala considered the decree as not in force? Ocotopeque was designated because there was the tradition that it was in such a place that the commissioners met under the treaty of 1845, and it has no importance whatsoever for the qualification of documents, the fact that such a place be near or far from the point where the line should be drawn as it is indicated by the treaty itself, it would be as a meeting place for the commissioners, that is to say, they would discuss there the works which they should already have accomplished; they would prepare those which they should have to make and would study the documents and data; but the designation of that place does not indicate that the high parties should have wished to confine their claims to such a point.

And those arguments, Señor Bonilla, which have undoubtedly been advanced without a clear conception of their import, may also be turned against the interests that he defends. Let him consider for a moment that Honduras is also signatory of the treaty, and that if such a fact should be sufficient to render invalid such documents as demarcate boundaries, as His Excellency claims that the royal decree of appointment of Don Juan de Vera demarcates the boundaries of his country with mine, it is evident that the said decree would have been rendered invalid because if the high party on the opposite side should have considered it as in force, according to the position taken by her worthy representative, would have had to provoke diplomatic discussions, or have recourse to arbitration, or better, to war, because it is seen that such recourse to arbitration is not altogether pleasing to her. But as she took none of those steps, the royal decree relative to the appointment of Don Juan de Vera, if indeed it demarcates any boundaries, must be considered as nonexisting; and if it is considered as valid, it is because it does not make any demarcation and all the efforts of the distinguished delegate of Honduras in his brave endeavor to prove that it does make such demarcation has proven sterile.

To finish the refutation of the argument of Honduras, I shall refer to the declaration made in the treaty of 1914 on the validity of the works of the commission. In this respect, Señor Bonilla says, that if Guatemala would have thought that the boundary line ought to be marked out at such a distance from the boundaries fixed by the commissioners, she would not have consented to the approval of

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their work. You are not right Dr. Bonilla; Guatemala did not examine the work of the commissioners; for that reason she did not declare such a work as simply valid, but she subjected its validity to the condition that it should have been adjusted to the treaty; it being approved in this form, if when the proper time should arrive to take it into consideration, it should be seen that the work did not fix the line in conformity with those fixed in public documents, and therefore, according to the document upon which is founded the claim of Guatemala, and as it had not been adjusted to the treaty, the declaration of validity could not have had any effect whatsoever because the condition had not been fulfilled. How then can the said declaration affect the rights of Guatemala? In no way, absolutely; in no way whatsoever.

I shall now proceed with the study made by Señor Bonilla, endeavoring to investigate the reason that His Majesty, the King of Spain, had, to issue the royal decree of 1563, which demarcates the boundaries between Guatemala and Honduras.

The honorable representative of Honduras says: "There was in Guatemala a royal audiencia which had jurisdiction over all the Kingdom of the same name. The King, by reasons which are stated by Juarros, and which I shall quote further on, resolved to take away the audiencia from that place and to divide the territory under its Government between the audiencia of Mexico—New Spain—and the audiencia of Panama, which was then created by him. In order that there should be a boundary line easily perceived, he marked out a line from the Gulf of Fonseca to the River Ulua; and he ordered that such part of the territory as was situated on the right-hand side of that line should be the jurisdiction of the audiencia of Panama, and such as is situated on the left-hand side should be the jurisdiction of that of New Spain, including the village of Gracias a Dios and San Gil de Buena Vista in the Province of Honduras."

"In this way the Honduran territory," continues Señor Bonilla, "had been divided between the two audiencias; and undoubtedly the King understood that this was irregular, because under the same date he issued the *other royal decree, adding to the Government of Guatemala the territory of Honduras situated on the left-hand side, that is to say, to the west of the said line. But the King did not do all this in order to reward the sacrifices made by Guatemala for the benefit of that portion of the Honduran territory. On the contrary, his object was to punish the excesses and abuses committed by the Guatemalan officials.*"

Let us make an observation before proceeding any further. As it is seen, the Delegate of Honduras asserts that the King of Spain, for the purpose of punishing the excesses and abuses of the Guatemalan officials, annexed the governmental district of Guatemala to

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the territory of Honduras, situated on the left-hand side, that is to say, to the west of the line from the Gulf of Fonseca to the River Ulua. What a strange way of punishing the Spanish Sovereign had, Señor Bonilla, of giving territory in payment of abuses and excesses.

I make this observation in order to show the guiding logic of the Honduran argument, and how in his purpose to oppose me, he appeals to the most untenable arguments.

I shall proceed: The Representative of Honduras says that the King of Spain undoubtedly understood the irregularity existing in the demarcation made by the royal decree as regards the transfer of the audiencia to Panama, and that for that reason he omitted the demarcation of the boundaries of the governmental district of Guatemala. That is not so, Dr. Bonilla; perhaps your excellency has not read carefully that document. If you had read it you would not make any such assumption.

The demarcation of the boundaries of the governmental district of Guatemala was made on the occasion of the appointment of Luís de Guzmán as governor of the said district; this appears very plainly in the decree.

The honorable delegate from Honduras continues in the field of assumption and says that the curtailment of the territory of his country probably was not effective by reason of any claim of the Government of Honduras in view of which the King rectified and expressly repealed his former decree, commanding that the Province of Honduras should have the boundaries which she had had before, and indirectly the boundary line of the territory of the two audiencias was also rectified.

I regret to have to call again the attention of Dr. Bonilla to the haste with which he has undoubtedly read the royal decree of 1564. This decree was issued for the appointment of Juan de Busto de Villega, who substituted Luís de Guzmán in the Government of Guatemala as it is clearly expressed in the decree, and for the purpose of correcting the defective boundaries stated in the other, as I have shown that it is deduced from its grammatical and logical interpretation.

It was not then the result of any claim of the Government of Honduras, nor did it impliedly or expressly repeal the said decree as it is asserted by Señor Bonilla, nor did it command, as he says, changing the words of the King, that the Province of Honduras should have the boundaries which *she had had before*, but those which she then had, and for that reason, the decree definitely declares "*that she remains with the boundaries which she has had until now*," that is to say, the boundaries marked out in the royal decree of 1563, which, as I have already shown, follows from the words

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of that law, and from the facts, because the Province of Honduras had no boundaries fixed before the issuing of such a decree.

In respect to the assertion that the demarcation of the audiencias have been indirectly rectified, I regret also not to agree with the learned Señor Bonilla; the jurisdictional boundaries of the audiencias, or of any tribunal, are not indirectly rectified or modified but by express and definite law.

Whatever thing may have been said by Juarros in respect to the causes which brought about the transfer of the audiencia to Panama, is not conducive to a precise determination of the boundaries between Guatemala and Honduras. However, in order to show that the Honduran delegate has not selected a historian too scrupulus as regards historical truth, I shall summarize some of the statements made on that subject by the noted North American historian Bancroft—Volume II, History of Central America—upon the authority of Spanish chroniclers. He says that the transfer of the audiencia to Panama was decided by the Crown, but that the chroniclers do not state the reasons therefor. He said that at that time Francisco del Valle was acting as solicitor at the court for the city of Guatemala; that in a letter dated February 20, 1564, he informed the city council (cabildo) that the transfer of the audiencia had been already determined, and that a month afterward he wrote that in consequence of the displeasure with which the solicitor of Peru had left the court, the council (consejo) deemed it as a favorable opportunity for the transfer of the audiencia.

Immediately after, Señor Bonilla, being unable to deny that the royal decree of 1564, which he cites in his support, leaves the Gulf of Fonseca within the boundaries of Guatemala, finds himself compelled to recognize that truth expressly.

In fact, he says: "*It is no wonder that the King should have left the Gulf of Fonseca included within the Province of Guatemala, because at that time, and for a long time afterwards, Guatemala extended to even touch the Province of Nicaragua, including the territory which to-day forms the Republic of Salvador, and a strip of that of Honduras on the Gulf. This is shown by the maps until the cigthteenth century and by error even in some later ones. It is confirmed by many old documents, among others the one which, under title of 'Demarcation and Division of the Indies,' I have already cited and which is designated as Annex 4.*"

I accept the clear and explicit asknowledgment made by Honduras through her distinguished delegate, that at that time and until the eighteenth century, the boundaries of Guatemala extended to the Province of Nicaragua; an acknowledgment which has a great value,

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not only because of the distinguished person who makes it, but because it indicates the evidence upon which it is founded.

The confession of the high party on the opposite side in respect to this particular, relieves Guatemala of insisting on the evidence introduced in regard to the fact that her rights extend up to that point, and Honduras has the burden of proving, not by suppositions nor opinions of authors, but by royal decrees of the Spanish monarch, subsequent to the eighteenth century, that all that territory and the Gulf of Fonseca was adjudged to Honduras and taken away from Guatemala. So long as such royal decrees are not presented, the rights of Guatemala shall remain unshaken.

Finally the honorable Señor Bonilla having no better argument appeals to the ecclesiastical jurisdictions according to the royal ordinance of intendentes, and says that the latter gave to the Provinces the same territorial extension as to the bishoprics, and that, therefore, the territory on the Gulf was included within that of Honduras as part of the diocese.

I have already suggested somewhere else in this memorial the value which must be given to the ordinance of intendentes, and it now only remains for me to remind the distinguished representative of Honduras, that he himself in his memorandum of May 30, in considering the order in which the probatory elements must be appreciated, relegated to the fourth place the ecclesiastical jurisdiction. What value therefore can the latter have in connection with boundary demarcating documents such as the royal decrees of 1563 and 1564, on which I based the claim of my country, and which must be taken into consideration with preference to the said jurisdictions, according to the treaty in force and to the confession of Señor Bonilla himself?

I shall insist, therefore, that in order to destroy the clear and legitimate titles of ownership which Guatemala had presented, others of equal nature and greater force must be alleged, according to the provisions of the treaty; and I shall repeat that so long as this is not done, the rights of Guatemala shall remain unshaken.

Before concluding this part, which has been devoted to the examination of the Guatemalan claim, I must tell Dr. Bonilla that I cited incidentally the treaty which Guatemala concluded long years ago with England in respect to the territory of Belice; that the said treaty being completely foreign to the question under discussion, I do not have it in my possession and as it is not relevant to the case I shall not, therefore, feel called upon to present it; but I must refresh the memory of the honorable representative of Honduras, by telling him that it was not Mr. Chatfield whom he supposes to be an ally to the Government, which at that time ruled my country,

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and that he was adverse to his country, who negotiated the said treaty, but that it was his excellency, Charles Lennox Wyke, who came as diplomatic representative of Great Britain for the settlement of that question.

THE HONDURAN CLAIM AND THE GROUNDS ON WHICH GUATEMALA REFUTES IT.

The honorable delegation of Honduras through its worthy chairman, the learned Dr. Bonilla, has formulated her boundary claim defining in the following manner the boundary line between Guatemala and Honduras; From Cerro Brujo to Cerro Obscuro, and from this point to Cumbre del Guayabo; from this point to the confluence of the Motagua and Managua, and from this point to the frontier of Belice.

He bases this line on the work which the joint commission carried out during the years 1908, 1909, and 1910, in the portion included between Cerro Brujo and Cerro Obscuro and from this point to Cumbre del Guayabo; on title deeds to lands and all other documents which may throw light according to the Convention in force, from that point to the confluence of the Rivers Motagua and Managua, and from this point to the frontier of Belice, on the colonial law.

I have, with well founded reasons, opposed such claim in my memorandum of the 25th of last month, proving conclusively the following points:

1. That the work of the joint technical commission can not be invoked as foundation for demarcating boundaries, because such work is null according to the treaty, and that therefore, the first line claimed by Dr. Bonilla is lacking a fundamental basis;

2. Because the title deeds to lands referring to private property, can not either be invoked as a foundation because the treaty does not give any probatory value to them; that in the same way and for a similar reason, the opinions of writers, testimonial informations and notes of Province governors (Jefes Políticos) or authorities can not be taken for that purpose; and that in consequence also the second part of the line proposed by the delegation of Honduras is wanting in foundation; and

3. Because among the colonial documents presented by Señor Bonilla, there is only one provision which, by reason of its having emanated from the Spanish Monarch—the appointment of Don Juan de Vera—can be taken into consideration for the purpose of opposing the decree presented by me; but the said provision can neither destroy this decree nor grant rights of dominion on Guatemalan territory to Honduras.

I ratify entirely the reasons which I have alleged in my said memorandum of the 25th in order to reach the conclusions stated,

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and there now remains for me to refute the counter arguments formulated by Dr. Bonilla in his rejoinder of the 29th.

Referring to the nullity of the work carried out by the joint technical commission, I presented three reasons to prove it; the first, that the commissioners not having executed the work on the soil of the frontier, violated Article II of the treaty, which commands them to do so; second, that the commissioners fixed the present line of possession, thereby violating Article VI of the treaty, which establishes the *uti possidetis juris* of 1821; and third that the commission disregarded the treaty, by examining documents without taking into consideration the order fixed in Article VI.

In respect to the first reason alleged, Señor Bonilla, for the purpose of opposing it, says that the commissioners could not determine what the frontier was because they went precisely to find it. That is all right; but, I ask, on what basis were they to found their search for the frontier? Would it be only in their geodetic work, or should they adjust this work to the documental precedents, that is to say, to the titles of the two countries? If the treaty had empowered them to find the boundaries without giving them any other standard of procedure than that which they, in conformity with science, should wish to adopt, the argument of the representative of Honduras would be very proper; but the treaty did not do any such thing; by Article I the treaty commanded them to adjust themselves to all the historical facts, documents, etc., and as they did not do it, they went to make their surveys at a long distance from the line of the Ulua, which, according to the royal decrees of 1563 and 1564, fixed the place of the frontier, and therefore they violated Articles I and II of the treaty.

In respect to the second reason, Señor Bonilla, for the purpose of refuting it, says: "Indeed, I do not understand how the commissioners could have fixed the line of possession of 1821, when it was precisely because such a line was considered as doubtful that the said commission was organized to investigate it."

And how, Señor Bonilla, if your excellency confesses that the commissioners fixed the line of possession of 1821, and agree, as you have declared on different occasions, that the *uti possidetis juris* of that year should, according to the treaty, be taken as a basis for the demarcation of the two countries, can now ask that the line fixed by the commissions, which did not fulfill such a requisite, should be adopted?

And it is useless to say, as your excellency asserts, that to reach the line of possession in law, of 1821, would have been the end and not the beginning of the work of the commission, because in that case the said work can not be taken either as a demarcating basis, because

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the said work is not complete and the treaty prescribes that for that purpose it must be. (Articles III, IV, and V of the treaty.)

In respect to the third reason, Dr. Bonilla, pretending to refute it, says: "I do not understand how there could have been a violation of the convention because the joint commission should have made a simple study of any document in any order whatsoever."

It is not, Dr. Bonilla, because of the fact that the commissioners have made a simple study of the title deeds to lands that I attack the work done by the commission; no, it is because one portion of the line that your excellency proposes was studied taking as a basis those title deeds, these documents, being useless for the purpose according to the treaty which the commissioners ought to have regarded because their mission was not confined to carry out a geodetic survey, but they were at the same time required to apply the documents in conformity with the treaty; they chose not to do it, and for that reason they violated the treaty.

Fundamentally altering my assertions—probably by mistake—Señor Bonilla says: "The fact that there was no agreement between the members of the joint commission on some other points of the line, or on the juridical appreciation of the documents presented, did not imply a violation of the treaty."

I have not argued the lack of agreement as a ground for nullity; I have invoked such a lack of agreement in order to show that also for this reason the work of the commissioners has no value, which is an entirely different thing.

In order to prove this I shall quote literally what I said in my memorandum: "Besides the well-founded reasons already stated, which show the nullity of the work of the commission on account of the violation of the treaty of 1895, there is another which clearly nullifies the said work, and that is the lack of harmony in the work of the said commission. The discord was manifested, whether in the appreciation of the legal value which must be given to the documents, in support of the boundary lines, or in the fixing of the latter."

Thus Señor Bonilla can see that I do not allege the lack of harmony of the commissions as a cause of nullity, but that I invoke it to show that for that reason also the work of the said commission is wanting in value to be taken as a basis for the final boundary to be fixed as it is done by your excellency.

I do not deem it necessary to insist any longer on the lack of value of the work of the commissioners to be invoked in support of a boundary line; I have conclusively proved in my memorandum of the 25th that the said work is null and void and that, further-

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more, it must not be taken into consideration for the lack of harmony among the commissioners over the said work; and now I have conclusively proved that the arguments presented by the worthy representative of Honduras in support of the validity of the said work have been destroyed by my reasons.

The work of the commission is, then, null and void, and the argument for the first portion of the line proposed by Dr. Bonilla, has no foundation whatever.

I am going to study the counter arguments for the second portion of the said line. This portion, as I have already said, is founded by Señor Bonilla, on title deeds of private property.

I have opposed that argument on the ground that the treaty does not give any probatory value to the said documents, mainly as against the definite and clear provisions of the decrees of the Spanish Monarch. I have already stated the reasons for this, and I do not deem it necessary for the reason that they are already stated in my memorandum of the 25th, to insist any longer upon them; but I shall consider the arguments presented by Señor Bonilla in his rejoinder, in support of the said title deeds.

The honorable representative of Honduras continues making the mistake of altering my words. "The delegation of Guatemala," he says, "denies principal probatory value according to the treaty to such title deeds to private property as have been granted and executed without summoning the neighboring State."

That is not so, Dr. Bonilla; I deny it to all title deeds to lands in general, and not as your excellency mistakenly attempts to make us believe, that it is only to those who have been issued without the knowledge of the neighboring State; this is the reason which I have given for stating that such title deeds have no value whatsoever.

For that reason I have said in my aforementioned memorandum of the 25th: "* * * title deeds to lands are not documents with a principal probatory value according to the treaty. It remains now for us to make some other considerations in order to show conclusively that this ground of the Honduran claim is also untenable.

"In the first place, title deeds to private property prove nothing, inasmuch as they do not prove the right under which they have been issued, because they are executed without notice or summons to the neighboring State."

How different that is from what your excellency has attempted to impute to it.

After making this necessary explanation I shall proceed to consider the reasons presented on this point by the honorable delegate from Honduras.

The said diplomatist distinguishes four classes of title deeds to lands, to wit, those issued before September 15, 1821; those issued

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afterwards but before 1839, or under the Federal Government; those issued afterwards, but before the convention of 1895; and those issued subsequent to that date.

As regards the first, I shall state that, notwithstanding the fact that they are adorned with all the conditions suggested by Dr. Bonilla, they can not be taken into consideration, neither with preference to, nor upon a footing of equality with the decrees of the Crown of Spain, and all other elements expressly enumerated by Article VI of the treaty. The reason is apparent, the jurisdiction of the colonial officials being at that time quite often confused to such an extent that several of the said officials exercised jurisdiction for certain purposes over Provinces which did not belong to their territorial jurisdiction; it is evident that on repeated occasions they would issue title deeds to lands in places which were not included within their jurisdiction and therefore the said title deeds can not prove that the provincial boundaries extended to such places. By decrees of the Spanish King I have shown that until a short time before the independence, the President of Guatemala used to issue title deeds to lands in Trujillo, and this was no reason for the latter to belong to the Province of Guatemala.

It is evident, therefore, that the title deeds to land issued previous to 1821 can not be taken into consideration to fix boundaries.

In respect to those issued subsequent thereto, whether during Federal times, or afterwards, until the date of the treaty of 1895, they could not be taken into consideration for the said purpose either, both for the reasons already stated in my memorandum of the 25th and because when trying to determine the territorial jurisdictions to the date of the independence, no purpose whatsoever could be served by facts subsequent to the said date.

It is therefore shown that title deeds to lands can not be taken into consideration, and for this reason, the basis upon which the distinguished representative of Honduras rests the second portion of the land which he claims, fails.

I shall refer here to opinions of writers, documents foreign to the Crown of Spain and informations.

In this regard Señor Bonilla says: "As against the claims of the honorable representative from Guatemala, I have not cited Juarros, Marure and Larreinaga, in order to find an authority for the claim contained in my memoranda of May 24th and 30th." Since your excellency makes such a clear and frank declaration, I have nothing to say; but I shall add, that, notwithstanding the high respect which he has for the historian Juarros, I can not give him faith and credit because he is inaccurate and not impartial in many of his statements. Mr. Bancroft is of the same opinion, which he expresses in this

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regard in the citations made in his rejoinder by my honorable opponent of that author, and which he exhibits under No. 10.

In the citation taken from page 142, Volume II of the History of Central America, referring to the history of Juarros, he says: "His work is full and clear and displays considerable research, but unfortunately he follows Fuentes too closely, *and this latter author's partiality to the conquerors renders him too biased to be faithful as an historian.*"

In the citation quoted from page 737 of the same volume of the same work, Mr. Bancroft expresses himself as follows: "*Notwithstanding his access to original documents, Fuentes and Guzmán committed many errors which were unwittingly copied by Juarros.*" Further on he says: "*Juarros is in many respects incomplete. He has failed in a lamentable degree to present anything like the true political, social and moral condition of the people or the development of the country during this period; and for the conquest and early colonial epochs there is a manifest lack of study and research.*"

After reading these citations, I believe that Señor Bonilla will understand the reason which I have not to give Juarros complete credence as an historian.

I shall now study the argument for the third portion of the line claimed by Honduras. As I have said, he founds it on the colonial laws. In his note of amplification to the memorandum under date of May 30 last, he says that it rests on the documents which he only enumerates marked with letters A, B, C, D, E, F, G, and H, and on the royal decree of August 23, 1745, which contains the appointment made of Don Juan de Vera as governor and commander general of the Province of Honduras, tracing the origin of the said decree to the discords which arose, according to Dr. Bonilla, from the change of ports and other claims.

Later on, in his rejoinder he changes his orientation and plan, and now the aforesaid royal decree is not what gives to Honduras a right over the territory from the Atlantic coast to Belice, but the agreement of Alvarado and Montejo, the royal decree of 1564 in connection with that of 1563 passing that of Don Juan de Vera to the category of a confirmatory decree, originated from those historical facts and not from the change of ports and claims as he thought at first.

So that, therefore, the final portion of the Honduran claim is based upon the following facts and documents:

(a) The agreement between Alvarado and Montejo,

(b) The royal decree of 1564 in connection with that of 1563, and,

(c) The appointment of Don Juan de Vera.

I shall examine separately each one of those grounds.

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With the support of history I have shown that Don Pedro de Alvarado conquered and founded in the year 1563, with Guatemalan elements, the villages and towns of San Gil of Buena Vista, Gracias a Dios, San Pedro Sula and Puerto Cortés; that in the said towns he apportioned the lands among the colonists whom he brought there from Guatemala; that in the same year he went to Spain; that during his absence Montejo was appointed Governor of Honduras, and that he unduly possessed himself of the places founded by Alvarado and did not respect the apportionments made by him, and had, therefore, with him the boundary differences to which Justo Zaragoza refers; that Alvarado notified the King of such differences, and that the King issued a royal decree recommending the Bishop of Honduras to have them come to an agreement, and that, finally, Alvarado returned from Spain in the year 1539 and concluded an agreement with Montejo, the latter ceding to him the Gòvernment of Honduras.

What is the inference of these facts? That if the Conqueror of Guatemala had founded those towns for Honduras he would have had no boundary differences with Montejo, because the latter as governor of Honduras could have at his discretion exercised authority over such places; and that if he had such difference, it was because Montejo was unduly exercising authority over towns which were not included within his governmental district.

It is therefore shown that Don Pedro de Alvarado conquered for Guatemala the said towns. I shall now examine if by the agreement with Montejo these towns could have gone to constitute a part of the Province of Honduras.

I have read carefully the said agreement and there is nothing else in it than the change of offices between the two adelantados. Could that agreement, according to law, give to the Province of Honduras any right of dominion over the villages and towns belonging to the Province of Guatemala? Evidently no; the ownership of those territories belonged to the King of Spain and he was the only one who could change the provincial comprehensions. He did not do it, therefore he left them as they were, and although Alvarado may have for some time governed the two Provinces, this did not suffer on account of that fact any alteration whatsoever.

But even supposing that the agreement between Montejo and Alvarado should have given to Honduras rights of dominion over the said territories, she could not at the present time allege them, because the King of Spain, in a subsequent date to that convention—the years 1563 and 1564—in fixing the boundaries of the governmental district of Guatemala have given them to the latter.

The edifice of the pretended rights of Honduras then falls to the ground. And not only that, the pillars erected by Dr. Bonilla with

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the royal decrees of 1563 and 1564 also fall to the ground, together with the decree of 1745, regarding the appointment of Don Juan de Vera, which was placed on the top of the edifice in the fashion of a cupola.

I am going to prove it. The royal decrees of 1563 and 1564 are precisely the royal titles which Guatemala alleges in support of her claim. Through them, the territorial comprehension of my country, situated to the west of the River Ulua and the Gulf of Fonseca, inclusive, is made perfectly clear and determined as I have already proved in the course of my plea.

I do not know how Dr. Bonilla can claim that such documents may serve Honduras as her titles to that same territory; she may show by them her title to the region situated to the east of the River Ulua. If she invokes them in that sense, I am ready and willing to recognize them.

But so far as the royal decree regarding the appointment of Don Juan de Vera is concerned, I must say, as I have already stated it and proved before, that it does not give any right to Honduras over the territory of the Atlantic coast to Yucatan. I ratify, therefore, all the arguments presented on this matter in my memorandum of the 25th ultimo, and I shall enter now into some considerations relating principally to the award rendered by His Majesty the King of Spain, in solving the boundary question between Nicaragua and Honduras, and which the latter endeavors to invoke in support of the interpretation which she gives to the said documents.

By this document, as I have already stated, Don Juan de Vera is appointed governor and commander general of the Province of Honduras, and special jurisdiction is granted to him for certain purposes, over that part belonging to the Guatemalan territory up to Yucatan, and general ample and complete jurisdiction over all the territory of his governmental district.

His Majesty, the King of Spain, had in consideration, in order to specifically extend the jurisdiction of the Governor de la Vera, to the territory of Guatemala, that her President was a mere "letrado," and it being necessary to undertake military operations to expel the English, the latter could not carry them out, for which reason it was necessary to invest the governor of Honduras, who was a military man, of the necessary jurisdiction for the purpose. But when the reason ceased to exist, because the Government of Guatemala was entrusted to a learned and expert military commander, the King deprived de Vera of such a jurisdiction, leaving it to him only as far as the Province of which he was governor was concerned.

Let us see what the respective royal decree, the material parts of which we shall presently quote, says:

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"The King: Don Juan de Vera, colonel of my armies, governor of the Province of Honduras and of the city of Comayagua, and commanding general of the armies thereof, of the territory of the alcaldía mayor of Tegucigalpa, and of the other territories comprised between the point where the jurisdiction of the governor of Yucatan ends and Cape Gracias a Dios. When the king, my lord and father—may God keep him in His glory—conferred upon you the title to these offices on August 23, 1745, he deemed it convenient to state therein, as well as in the instructions and the other papers issued to you for the better fulfillment of your mission, *that as to all military matters and as to the vigilance over and prevention of illicit trade you were to exercise your full discretion and act independently from any other jurisdiction; and this resolution* was notified to all persons concerned so that being advised thereof they should let you exercise freely all your powers, without hindering or opposing your orders, and cooperate with you in carrying them out according to the instructions given you therein. *In doing so, His Majesty had kept in mind the fact that the President of Guatemala, being merely a man of letters, and all military operations being therefore, foreign to his profession, my service would be seriously impaired were you to be subordinated to him as to those matters, just as you should be, as all your worthy predecessors were, in all those pertaining to civil, criminal and governative cases; because if such were the case there could be no facilities to provide and arrange for the plans and schemes to attack with opportunity the settlements of the enemies, and to safeguard the coast regions of the provinces which fall under your jurisdiction, and I, having now decided that the government of the Kingdom of Guatemala and presidency of the supreme court seated at the city of Santiago, should be in charge of a military officer, whose conduct, experience and capacity should insure the restoration not only of the aforesaid supreme court, for which His Majesty—may God keep him in His glory—had already issued some decrees, but also for the restoration of the aforesaid Province of the whole of that Kingdom, so that the natives thereof shall experience the effects of my paternal love, and my royal treasurer shall, at the same time, derive the necessary benefits in order to attend with less difficulties to their relief: having taken into consideration that all these qualities are to be found in the field marshal of my armies, Don Francisco Cagical de la Vega, governor and war captain of the city and district of Santiago of Cuba, I have resolved to appoint him governor and captain general of the Provinces of the Kingdom of Guatemala, and president of the supreme court, seated at the city of Santiago, with as full and absolute jurisdiction, privileges and exemptions as belong to him as such, without any exception or limitation.*"

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So that Señor de Vera after the issuing of the aforesaid royal decree, was left without the special jurisdiction which had been granted to him over a portion of the Guatemalan territory, and only with such jurisdiction as belonged to him as governor of Honduras, within the boundary of his Province.

That is so clear that no further explanation is necessary; but even assuming that Señor de Vera should have retained the specific jurisdiction which had been conferred upon him over territory of Guatemala, and that the jurisdiction granted to a governor could be taken as fixing the boundaries, when there are special provisions determining them, the jurisdiction exercised by Don Juan de Vera, could not either under that supposition affect the boundaries marked out for the Provinces of Guatemala and Honduras by the royal decrees of 1563 and 1564, for this reason: The jurisdiction given to a governor has been sometimes employed as a supplemental means for the fixing of boundaries, but such has been the case there are not special laws which determine them, which does not occur in the present case, and we must state that in order to be able to employ such a supplemental means, it is necessary that the jurisdiction exercised by the Government be full, absolute and without restriction of any kind, because it is founded in the extensive application of a law of Indies, which instructs the governors to keep within the boundaries of their districts—that is to say, that they must exercise their jurisdiction within such boundaries—and from this it has been concluded that when there is not an expressed boundary demarcating provision it is presumed or supposed that the jurisdiction exercised by the governor is in harmony with the boundaries of his governmental district.

Now, then, the jurisdiction granted to Don Juan de Vera, both by the royal decree of his appointment and by the provision quoted above, as it may be readily seen, never had an absolute character in respect to the territory of Guatemala; it was always special, for military purposes and for the prevention of the illicit trade; therefore, not even in that hypothetical case could it be taken as a supplemental means for the fixing of boundaries.

The principle that special jurisdiction do not imply a territorial segregation, has also been sustained by the Government of Honduras in its boundary question with Nicaragua. Its counsel in this case, the learned Doctor Alberto Membreño, in his reply to the Nicaraguan Declaration presented to the royal arbitrator, says: "It would be useless to dwell upon the jurisdiction exercised by the Captain General of Guatemala, over those military colonies"—he refers to those of Rio Tinto, Cape of Gracias a Dios, etc.—"upon the competition which he had with the intendente of Honduras, or upon other incidents connected with this case, for all of which it would be sufficient to reproduce the contents of the allegation of Honduras on page 63

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and 64, respecting the fact that the regulation of the said settlements, *which was issued for the better service of the fiscal interests and for the progress of the colonies, was similar to that which the parts of the nations of the Federal Government have in so far as it depends on the Central Government; but it was never deemed that the territories in which the settlements were located should be segregated from the respective Provinces.*"

If the special jurisdiction which was given to the captain general of Guatemala over the said settlement, which was, as it is said by the Honduran lawyer, for the better service of the fiscal interests and progress of the colonies, did not bring about the segregation of the said settlements from their respective provinces, why could then the jurisdiction which was granted to Don Juan de Vera, also for the better service of certain interests, as military operations and the prevention of contraband are, have that effect?

It would be absurd to think that it should have that effect; but for the sake of argument I shall assume that it could have such an effect. I ask: Where is the jurisdiction—even special—that the governor of Honduras had, at the time of the independence, over the territory of Guatemala from Yucatan? Where is it, if the appointment of Don Francisco Cagigal deprived him of it, returning it absolute and without limitations to the governor of Guatemala?

I have already shown conclusively by documents of unchallengeable value that the jurisdictional powers conferred upon de Vera are divided as follows: Special, for the purposes already indicated; in so far as they refer to the Guatemalan territory, from the governmental district of Yucatan, and general, in conformity with his functions as governor over the Province of Honduras. The former were, as I have already said, taken away from him, when Señor Cagigal was appointed and the latter were retained by him because they emanated from his appointment as governor of Honduras, his jurisdiction being subject to the boundaries of his Province, that is to say, from the River Ulua, which was the boundary line of Guatemala in conformity with the royal decrees of 1563 and 1564, to the Cape of Gracias a Dios, which was the boundary point with Nicaragua, a demarcation made by the royal degree relating to the appointment of Don Juan de Vera.

His Majesty the King, Don Alfonso XIII, in deciding the arbitration between the said Republic and that of Honduras, must not examine the said royal decree in connection with the Guatemalan-Honduran frontier; he must only examine it in connection with the frontier belonging to the high parties to which the controversy referred, and as the demarcation between those two countries in controversy was not determined by a special provision, he appealed to

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the demarcation fixed upon the Nicaraguan frontier by the jurisdiction of Señor de Vera over his Province, both because that jurisdiction had been reserved to him, and because in that case it could be perfectly employed as a supplemental demarcatory means.

If the illustrious Spanish Monarch should have had to judge in respect to the frontier between Guatemala and Honduras, I am sure that he would never have taken into consideration for that case the royal decree relating to the appointment of Don Juan de Vera, both because in order to fix the boundaries between Guatemala and Honduras it is not necessary to have recourse to the supplemental means of the jurisdictions, and because so far as the Guatemalan territory is concerned the ephemeral special jurisdiction which Señor de Vera had was taken away from him by the appointment of Don Francisco Cagigal de la Vega, a royal provision which has nothing which would justify His Majesty in giving to it less consideration than to the other.

In consequence, the royal decree relative to the appointment of Don Juan de Vera may be the title of Honduras as regards her boundaries with Nicaragua; but it can not be such a title, for the reason which I have extensively stated, in regard to her boundaries with Guatemala, which are exactly determined by the royal decrees of 1563 and 1564.

It is seen, therefore, that the third portion of the line proposed by Señor Bonilla also lacks a foundation, and that Honduras has no historical and juridical titles to support her claim.

Guatemala, on the contrary, has efficacious and legitimate titles, constituted by the will of the Spanish Sovereign, as expressed in the two royal decrees to which I have so often referred.

Which one of the two countries, Dr. Bonilla, is the one which wishes its own aggrandizement at the expense of foreign territory? The one which formulates its claim founded upon clear and legitimate titles or the one which does not have, and never had them, claims a territorial extension which does not belong to it.

I propound these questions, compelled by the final declarations made by his excellency in the reply, and to which declaration I must answer, that it will not be a means for settling the boundary questions between the two countries, the reestablishment of the old Central American fatherland, as in that case also the States would have to have their boundaries well marked out and defined; that the settlement of this boundary, it is indeed a fundamental step toward the future realization of such a patriotic and legitimate desire.

LUIS TOLEDO HERRARTE.

WASHINGTON, D. C., *July 25, 1918.*

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[Translation.]

HONDURAN SPECIAL BOUNDARY COMMISSION IN THE UNITED STATES OF AMERICA.

1738 P STREET,
Washington, D. C., Aug. 28, 1918.

YOUR EXCELLENCY: In view of the fact that the Guatemalan commission, in its dúplica, refuted mine, I took the liberty of informing you that I would submit a new brief of amplification, which I enclose to your excellency herewith.

As the various exhibits are not yet completed, they are not enclosed herewith; but I shall forward them during the course of the present week. At that time I shall also send you a duplicate of these documents, complete, for the opposing party.

I am your obedient servant,

(Signed) P. BONILLA.

To his excellency Minister BOAZ LONG,
Representing the Government of the United States of America as mediator in the boundary negotiations between Honduras and Guatemala.
ATLANTIC CITY, N. J.

[Translation.]

AMPLIFICATION, DATED AUGUST 27, 1918, OF THE DUPLICA OF HONDURAS PRESENTED JULY 1 TO THE REPRESENTATIVE OF THE MEDIATOR AT THE CONFERENCE REGARDING BOUNDARIES, WITH GUATEMALA.

In my duplica, I stated that the system of written memoranda would make the discussion interminable, and it was my intention that that should be the last memorandum in my behalf, but inasmuch as the duplica of Guatemala, which was filed considerably later, refers in part specifically to my duplica, I am compelled to amplify the latter.

I shall not refer to matters of secondary importance, which have already been refuted, and in referring to those which, in my judgment, require special consideration, I shall merely cite the passage in my opponent's duplica, so as to avoid repeating the exact language.

In general, the procedure suggested by the representative of Guatemala is satisfactory to Honduras. However, I beg to suggest that it fails to include one of the steps discussed and agreed upon at the last joint conference, held on June 25. I refer to the plan of having the

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American lawyers of the two parties prepare, for the convenience of the mediator, briefs setting forth and discussing the cases of the two Governments.

It seems to me that the presentation of such briefs should not be abandoned, especially as the memoranda which the representatives of the two Governments have been presenting have of necessity reached a degree of voluminousness which will, without briefing, make the task of the mediator unduly laborious.

Moreover, the briefs to be presented by the American lawyers will serve to set out the claims of both parties, free of any prejudice or partiality, which is an end desired by both parties, because it is only natural that counsel shall be able to study the reciprocal rights of both parties with greater calmness and impartiality than the representatives of the interested Governments.

In order that the briefs may have their full measure of usefulness, it seems to me they should not be filed until both parties shall have presented all of the proofs which still remain to be submitted to the mediator at the time he may indicate.

On my part I shall be prepared to present these proofs before September 15. These proofs will comprise, broadly speaking, historical or legal documents as well as extracts from the works of historians and geographers, all of which are additional to the documents already submitted. Maps, judicial or ecclesiastical proceedings, and land titles will also be submitted.

Accordingly, I am prepared to accept the plan of procedure suggested by the representative of Guatemala in his memorandum of July 25, if he will ratify the suggestion made and accepted at the last joint conference, that such briefs be prepared and filed, it being understood that they shall be filed after the parties shall have submitted the whole evidence constituting their cases.

While the briefs are being prepared by American counsel, the mediator will be able to advance simultaneously, his study of the evidence, and upon the conclusion of such study, call a separate or joint meeting of the parties, to clear up any doubtful points arising in his mind, all as may best suit his convenience. Upon the termination of these steps, and the examination of the briefs to be submitted by the American lawyers, the mediator can then arrive at such a decision as he may deem just and advisable.

I wish to correct a misunderstanding on the part of the representative of Guatemala. I have not withdrawn the plan of discussion suggested by me in my replica. When I stated in my duplica that I could not make any proposal, I was referring simply to that mentioned in the final paragraph of his memorandum of May 24, wherein he called upon the representative of Honduras to suggest a boundary line. I did not refer to that request in my replica, be-

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cause I was in the hope that the representative of Guatemala would see his way clear to withdrawing his claim, based on the 1563 cedula, which carried the line from the Ulua River to the Gulf of Fonseca, as I felt that starting from this extreme claim, we could not begin to approach anything like an adjustment between the parties.

HISTORICAL CORRECTIONS.

I have read with close attention the historical recitals contained in the three memoranda of the representative of Guatemala, and I have in turn endeavored in my memoranda to state the points wherein we were not agreed, citing in support of my contention documents and histories. In order not to lengthen this memorandum, I beg to submit herewith Exhibit XIII, which is a schedule of the historical documents which I can add in support of my contentions. This is in accord with my contention that greater credit should be given to the historians and geographers who wrote at or about the time when the events occurred, rather than to more recent writers, who wrote centuries later.

Furthermore, a discussion of the events prior to 1563, tending to show whether or not the partido of Gracias a Dios and San Gil de Buenavista belonged to the Province of Honduras, ceases to be important in view of the express declaration of the King of Spain in his cedula (rescript) of September 8, 1563, fixing the boundaries of the new audiencias, to the effect that said partidos belonged to the Province of Honduras.

At page 32 of his duplica the representative of Guatemala proposed a discussion of this point, which is marked (*b*), but he failed to do so. Perhaps he considered that said cedula could be invoked by Honduras only for the purpose of claiming the territory east of the line therein marked out; but, as I then stated and now repeat, with said cedula I have shown that those were the boundaries which the Province of Honduras had up to that time, in accordance with a royal rescript not contradicted by another, but on the contrary, confirmed by those which I have already presented, and those which I am about to cite.

THE CLAIM OF HONDURAS IS NOT A NEW ONE.

I stated in my memorandum, and I have since repeated, that in 1894 it was first suggested by the Minister of Foreign Affairs of Honduras, and it was acted upon by the Honduras Boundary Commission—not in 1916, as suggested by the representative of Guatemala, but in 1910—when it endeavored to study and draw the plans of the region on the other side of the Motagua River, which it was

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unable to perform because it was prevented by the Guatemalan authorities. I then stated that the representatives of Guatemala admitted that they were aware of that claim, because they combated it in advance in their memorandum of May 24.

HONDURAS HAS NEVER LIMITED ITS CLAIM TO THE EASTERN SLOPE OF THE CORDILLERA.

The representative of Guatemala states that the aspirations of my country had been limited to defending that region, but only cites, in support of that statement, three grounds.

(*a*) *Work of Robustiano Vera.*—He states that in this work, Mr. Vera, consul of Honduras in Chile, declared that the boundary between the two Republics is the Merendon Cordillera, and that this work having been dedicated to me, as the then President of Honduras, it must have come to my knowledge, and it was my duty to direct that the error be corrected, if such was the case, which I failed to do.

The fact is, that the only thing that Mr. Vera wrote while I was President of Honduras, was the preface, dated at Santiago, Chile, September 21, 1898, but the book itself was written in 1899, after I had turned over the executive power to my constitutional successor, as is shown at page 27 of Mr. Vera's book, wherein he refers to this event and speaks of the administration of General Sierra, my successor. When that book was published, I was abroad, and did not know of it until it was referred to by the other party, when I examined a copy of it in the Library of Congress, in this city.

It would seem unnecessary to state that this book has no value as evidence, as it was written by one who was not a native of Honduras, who had never visited that country, so that the argument as to its value, urged by the other party, being based on the dedication of this book to me while I was President of Honduras, would seem to fall of its own weight.

(*b*) *The A. T. Byrne map.*—It has not been shown that the title of "Government engineer," which the author assumed, was warranted, or that he was commissioned to publish it. Furthermore, in a subsequent edition of the same map, by Mr. Byrne, in collaboration with Engineer Le Baron, the Honduras boundary was corrected, and it was placed at the Motagua River, approximately, in accord with the de facto line which had been recognized by the two countries prior to 1894. In due course I shall present a copy of the later and corrected edition of said map.

(*c*) *Alegato of Minister Membreño.*—Mr. Membreño, in his alegato before the King of Spain, in the arbitration regarding the boundaries with Nicaragua, does not state anything which would

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warrant the claim of Guatemala, or contradict that of Honduras. The extracts underscored by the Representative of Guatemala only tend to confirm what I have all along maintained, that is to say, that the Province of Honduras, the intendencia of Comayagua, and later the State and Republic of Honduras, have always had the same legal boundaries, although in part they may have been altered by actual possession. Mr. Membreño expressly includes in Honduras the partidos of Gracias, Chinda, Tencoa, and San Pedro Sula, which are precisely those comprised in the claim of Honduras along the border with Guatemala.

GUATEMALA'S LATEST AND EXTREME CLAIM.

I have already stated that Guatemala had never before even intimated its claim, presented at this conference, for a line running from the Ulua River to the Gulf of Fonsecca, and this would seem to be confirmed by the memoranda filed by Guatemala in the present proceedings.

ANCIENT POSSESSION BY HONDURAS.

I have maintained that Honduras possessed, until shortly prior to independence, the territory which it now claims, and that that possession is proved by documents showing the approval of the King, or his delegates. I have enumerated the documents in regard thereto, and the other side has attempted to controvert this only with the royal rescript of 1563, thereby admitting that, even under that rescript, Guatemala has not had possession of the territory which it now claims, even for a single day. This territory has been in the possession of Honduras, although the other side claims that this was held unlawfully, without proving it.

I do not wish to omit making two corrections.

(*a*) Alvarado distributed the lands in the towns which he founded or resettled, not as governor of Guatemala, but as governor of Honduras, as is admitted by the representative of Guatemala in his first memorandum (page 10), wherein he states that Cereceda resigned the government of the Province of Honduras in favor of Alvarado, who was proclaimed such governor. This is borne out by the ancient and modern historians, who add that Alvarado accepted the appointment.

(*b*) Furthermore, it is not correct to say that the questions which were discussed in Gracias, by and between Alvarado and Montejo, related to the boundaries between Honduras and Guatemala, because neither of them ever held that those two Provinces adjoined each other. The subject of their dispute was regarding the exercise of

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the Government of Honduras, with the result that Montejo resigned in favor of Alvarado.

The fact is, that the dispute regarding the boundaries between the two adelantados had taken place in 1536, and that it referred to the Provinces of Yucatan and Honduras. This is clearly shown by the passage from the work of Justo Zaragoza, which the representative of Guatemala has interpreted otherwise, and this is more clearly shown in the following statement from the same Zaragoza, contained in his "Additions and Explanations" to the work of Fuentes y Guzman: "Cozumel—an island in the Atlantic Ocean in front of the coast of Yucatan. This was the first land examined by the Spaniards in 1518, when they discovered and conquered the region they called 'New Spain' and which was called 'Santa Cruz', because of a cross that was found there, and which the natives were worshiping. To this island, belonging to the Government of Yucatan, which had been conferred on the adelantado, Francisco Montejo, Pedro Alvarado went in 1536, to treat with the former regarding the boundaries of his territory, and those of the Province of Honduras." (Page 223, volume 2, "Recordacion Florida," Madrid, 1883.)

So when the change of Governments was made in 1539, that of Honduras passed into the hands of Alvarado in the same form in which it had been held by Montejo; that is to say, bordering on Yucatan.

The representative of Guatemala states that documents cited in my replica, marked Exhibits B–R, inclusive, are of no value, as against the royal rescript, and because possibly the extracts may not be entirely correct. Respecting the value of these as evidence, I shall insist further on. As for the correctness of the extracts, this can be satisfactorily established by comparing them with the certified copies made in due form from the archives of Spain, which will be filed in due course.

WORKS OF THE MIXED BOUNDARY COMMISSION.

The other side insists on considering them null, but all of their arguments on that score are finally based on the allegation that the royal rescript of 1563 was not then and there considered. The reason for this is obvious, it was because the Government of Guatemala did not place this rescript in the hands of its commissioners in 1847, in 1908, 1910, and 1916, and failed to instruct them to maintain then the claim which it now makes. They could not, of course, take into consideration that of which they had no knowledge and which their own Government did not then claim. All of the members of the Guatemalan commission here present have participated,

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in one form or another heretofore, in the discussion or the investigation of the boundaries between the two Republics, its chief, as Minister of Foreign Affairs, and the others, as engineers or lawyers.

In none of the discussions on the frontier, nor in any diplomatic note, has Honduras heretofore been informed regarding the claim which Guatemala bases on said cedula.

TREATY WITH SPAIN.

I confess that my memory failed me when I stated that in the treaty between Spain and Honduras there was a similar clause to the one existing in the treaty between Spain and Guatemala and the other Spanish-American Republics, invoked by the representative of Guatemala, but I have stated in my replica that such a clause neither adds nor takes away any rights to or from said countries, because Spain could not grant that which it no longer possessed. It will be sufficient to read the Declaration of Independence of Central America, dated September 15, 1821, and the Declaration of July 1, 1823, in which latter the Provinces of Honduras, Nicaragua, and Costa Rica were not represented, for which reason it was ratified by decree of the Constitutional Assembly of October 1 of the same year. It would also be sufficient to read the treaties made between Honduras and Guatemala, commencing with 1839, in which they mutually recognized their independence and sovereignty, and the integrity of their territory. ("Compilation of the Laws of Guatemala," by Manuel Pineda de Mont, vol. 1, pages 11, 24, 30, 382, and 393.)

TREATY WITH ENGLAND.

I must again admit that my memory failed me, when I stated that Chatfield, the British consul, intervened in the making of this treaty. In the Library of Congress I have found the convention entered into between the British Government and Guatemala, relating to the boundaries of the colony of Belize. This treaty was signed some years after Chatfield had ceased to be consul, but the latter had prepared the ground for the treaty. The pertinent articles of said treaty are set forth in Exhibit XIV, *a*, hereto annexed.

That treaty was made with Guatemala because Great Britain was unable to make such a treaty with Spain, as had been attempted in 1836, no doubt because Spain did not consider that it could cede rights which it no longer possessed.

In order to make the treaty with Guatemala, the British Government instructed its representative not to accept the *cession* of the territory of Belize from that Republic, but only to obtain the recog-

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nition of the rights of Britain in said territory, as the same existed prior to 1850, in which latter year Britain had celebrated a treaty with the United States, known as the Clayton-Bulwer treaty, inasmuch as no cession of territory subsequent to 1850 would be permitted by the United States, according to the terms of the Clayton-Bulwer treaty.

In said British-Guatemalan treaty, the sovereignty of England over Belize was acknowledged, notwithstanding that in accordance with the treaty made by Britain with Spain in 1786, the former had acquired only the right to cut timber, without the right to settle the country, and furthermore, with the express reservation of sovereignty therein on the part of Spain, and the boundaries extended only to the Sabun or Jabon River, instead of the Sarstoon River, to which latter they were extended by Guatemala. (Exhibit XIV, *b*).

This treaty was the subject of censure in the American press, and aroused public opinion (Exhibit XIV, *c*). As we have shown, Guatemala might have defended its sovereignty over the territory of British Honduras, and in any event, have kept Britain within the boundaries to which it had been consigned by the Spanish Government, and for that purpose, would have had the support of the United States, but it failed to do so. This is the answer to the question asked in the Guatemalan replica of June 25, as to why Britain dealt preferably with Guatemala, instead of dealing with Honduras, regarding the cession of the British territory.

ECCLESIASTICAL JURISDICTION.

Honduras has never denied the importance which documents of this class possess, provided they be taken into consideration as of the fourth class, as provided in the conventions of 1895 and 1914. In the absence of others, or where they corroborate documents of a political, military, or judicial character, such ecclesiastical documents, showing that a specified place was permanently included within the bishopric, would serve to demonstrate that they were also within the intendencia of the Province, in accordance with the royal ordinance relative thereto, and particularly in accordance with the royal rescript of August 23, 1745, which fixed the boundaries of the comandancia (military jurisdiction) of Honduras as coterminous with its bishopric.

For that reason I now call attention to the petition of Priest Manuel de la Fuente y Ayala, who held the ecclesiastical benefice of chaplain of the fortress of Golfo Dulce in 1693, when he asked for the payment of his back salary, and also requested that he be recommended to the bishop and council of Comayagua to bear him in mind when they should appoint a curate in some other part of

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the diocese, where climatic and other conditions were better, in recognition of the services which he had rendered for a long period in said fortress and in other places in that section, bordering on the Gulf of Amatique (Exhibit XV).

JUARROS, LARREINAGA, AND MARURE.

I have stated that I have not based the claim of Honduras on the statement of these authorities, because I have presented valuable ancient documents to support our claim. I have invoked the testimony of the first, because of his well-deserved reputation as a historian and geographer, recognized as such by the authors which I have cited in my previous memoranda, and those which I cite in Exhibit XVI, hereto annexed.

Furthermore, I want to refer particularly to the official recognition of his authority in a diplomatic precedent established by the Federal Government of Central America in its reply to a note from the Colombia legation in Guatemala, inquiring as to the boundaries between Central America and Colombia. This is contained in a resolution of the President of the Federation, which reads as follows:

"NATIONAL PALACE OF GUATEMALA, *Janaury 8, 1827.*

"The President of the Republic, having read this communication and after having examined the precedents which might throw light on what are the boundaries of the territory of the Republic in that part where it borders on Colombia, and having examined the geographical map and the laws contained in Liber 2, title 15 of the Compilation of the Indies, and finally, the *compendium of the History of the City of Guatemala, written by Reverend Domingo Juarros, which work was written after an examination of all the data bearing on the question,* has resolved: That reply be made to the minister plenipotentiary of Colombia, stating that the Escudo of Veraguas, on the Sea of the North, the mouth of the Boruca River, in the Province of Costa Rica along that of the South, and the partido of Chiriqui in that of Veraguas Inland, are the points which constitute the southeastern boundary of the territory of Central America, so that a line connecting these three points is the dividing line between its territory and that of Colombia. *Which boundaries are those fixed by the said historian, Juarros, in his said work.* (Rubric.) The Secretary of State, Juan Fco. de Sosa." ("Boundaries of Costa Rica and Colombia, New Documents for the History of their Territorial Jurisdiction, with Notes, Commentaries, and a Report on the Cartography of Costa Rica and Veragua," by Manuel M. de Peralta, Madrid, 1890.)

I have cited Larreinaga and Marure because the instructions which they drew were prepared especially for the Guatemalan Boundary Commission, relative to the Honduras boundary, and drawn by order of the Government of Guatemala, which is not denied by the Guatemalan representative. These instructions are in accord with the documents presented, and with that which I now cite (Exhibit

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XVII, *a*), all of which show that Guatemala, until as late as 1865, recognized the Motagua River as the de facto boundary line. In this, they only defended the territory on the other side of the river. against the claim which Honduras might make, with proper foundation, and especially against the evidence contained in documents prior to the independence, which considered said river as belonging to the Province of Honduras. (Exhibit XVII, *b*.)

Thus, the testimony of these notable Guatemalans, the first of whom lived up to a few years before the date of independence, and the other two who lived some years thereafter, is deserving of the highest credibility, until disproved by those of even greater authority.

ROYAL RESCRIPTS OF 1563 AND 1564.

The representative of Guatemala devotes pages 2, 6, 11, 13 to 23, both inclusive, 25 to 27, both inclusive, and 33 of his duplica, in an effort to show that they bear out Guatemala's claim and contradict that of Honduras, all of which, in reality and in general, is but a repetition of what had been stated in Guatemala's previous memoranda.

However, it does contain one new matter. As Guatemala had not presented the rescript of May 17, 1564, when Honduras submitted it as repealing the former, the Guatemalan representative then took hold of it as further supporting his contention. He states that instead of repealing the former, it confirms it, because it filled a vacuum, which was the failure to trace the line from the Ulua River to the Gulf of Fonseca, and consequently, where said rescript directs that Guatemala shall retain the boundaries "which until now it has had," the King meant thereby that that boundary was the line which in the former rescript he had drawn from "the Gulf of Fonsecca to the Province of Honduras," that is to say, to the Ulua River. The Guatemalan representative then goes on to state, in further explanation, that the rescript of 1564 left a clear and complete line, as follows: Gulf of Fonseca; thence a straight line to the Province of Honduras, and from this point continuing along the boundaries of said Province "which until now it has had," that is to say, that boundary which was fixed by the rescript of 1563, which was the Ulua River.

In passing, permit me to say that none of the documents set forth in my memoranda, or submitted as exhibits, has been incorrectly quoted. In the course of the argument, I have at times employed different words which I have considered to have the same meaning as the former. Thus, if I said "heretofore" instead of "until now," I did it in order to avoid the repeated use of quotation marks, because in my judgment, both mean the same thing; and in the

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same manner that the representative of Guatemala substituted, in paragraph 6, page 19, of his duplica, the expression, "up to this date," in lieu of "until now," and the expression, "sin embargo," for that of "no obstante," "no obstar," and "no oponerse," which he considered as synonyms, in paragraph 5, page 20.

The rescript of 1564 does not confirm, but on the contrary, abrogates that of 1563, for the following reasons:

First. Because if the King had wished to confirm it, he would have so stated, which confirmation, on the other hand, would have been unnecessary, inasmuch as the line from the Gulf to the Ulua had already been marked out in the other royal rescript of September 8, 1563, wherein he fixed the territorial boundaries of the audiencias.

Second. Because if the King had wished to repeat the limitation contained in the previous rescript, he would have stated, as being the clearer method, that the line from the Gulf of Fonsecca should be extended to the Ulua; and the words "una linea rata" (assuming that the word "rata" is old Spanish for "recta" meaning straight line), to the Province of Honduras, indicating that that line was perpendicular to that of the Province of Honduras, and not superimposed, which would have meant a prolongation of it. This is perfectly clear, upon an examination of the maps of the seventeenth and eighteenth centuries, which show that the boundary of Guatemala, on the side of the Gulf of Fonsecca, is a line more or less straight from Nicaragua to what is now the frontier of Salvador, and which was then represented as of Guatemala; and continuing along said frontier, bordering on Honduras, up to the Sea of the North. The map hereto annexed shows this more clearly. (Exhibit XVIII.)

Third. Because in that manner one can understand how Guatemala should continue with the boundaries "which until now it has had," which were to Gracias a Dios (Province of Comayagua) and San Gil de Buenavista, as was expressly stated by the King when he fixed the boundaries of the audiencias; so that the Province of Honduras continued with the same boundaries which it had since the agreement made in the island of Cozumel, heretofore mentioned, as also those which Pedro de Alvarado acknowledged in his letters, as set forth in Exhibit IV, "Demarcation and division of the Indies," and as set forth in the royal rescript appointing Juan de Vera governor of Honduras. (Exhibit VIII.)

Fourth. Because when the King directed that the royal rescript of 1564 should be executed, it should be understood, as we have heretofore explained, that that rescript was to be observed and performed, notwithstanding the other provision regarding said boundaries, because it was his will that there be observed only "that which we

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now issue" (i. e., 1564). The expression "sin embargo" (notwithstanding) has a specific meaning, and there is no necessity of looking for equivalents. Dr. Toledo Herrarte has had the goodness to copy the paragraph of the ordinance of intendentes, in which this expression is used in the same sense, in order to declare that the provisions to which said repealer applies become void or repealed.

Fifth. Because it should not be expected that the King should use, in 1563, the same language that was used two centuries later, inasmuch as the Castilian language at that time was still in its infancy, from which it had not emerged until the time of the immortal Cervantes. But at all times the words "I do not want any to have effect except this which I now issue" in Spanish have meant and still mean that provisions relating to boundaries of the governacion of Guatemala prior to the last-mentioned provision are invalid.

The construction which the representative of Guatemala gives to the rescript of 1564, whereby he considers the same as confirmatory of that of 1563, does not appear to be supported either by the histories or the geographies, as Guatemala did not possess, even for a day, the territory which it claims thereunder; and on the contrary, that which Honduras claims is in accordance with the geographical and historical authorities, which appear in the documents which have heretofore been submitted, those which are herewith submitted, and those which I will hereafter submit, and they all show that that territory has been possessed exclusively by Honduras for nearly four centuries, covering a period before and after 1563. This was recognized by the captains general and oidores (associate judges) of the audiencia of the Kingdom of Guatemala, among others, by Matias de Galves in the commission for the opening of a road between San Antonio del Descanso and Camotan (Exhibit XIX), as well as governors and bishops of Honduras, archbishops of Guatemala, and particularly, by the King himself, in the royal rescript of 1563, heretofore transcribed in this proceeding, and that of 1770 (marked "K" in my replica), that of 1818 (Exhibit XII of my duplica), and that of April 30, 1714, which declares that the towns of Amatique and Lemoa (Omoa) belong to Honduras (Exhibit XX). These royal rescripts, therefore, should furnish to the representatives of Guatemala documents of like force to that of the rescript of 1563, but overruling the latter, inasmuch as they are subsequent in date, and conflict therewith. Furthermore, Guatemala has recognized this in its internal legislation since the time of the federation, because when she made a division of her territory in her first constitution as a State, and in other laws relative to territorial divisions for political, electoral and judicial purposes, it included therein only the territory which until then it had possessed,

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without adding thereto a single village, town, or hamlet of those which Honduras now possesses, and even those which have in some manner not acquiesced in by Honduras, subsequently passed into the possession of Guatemala. (Exhibit XXI.)

I want to avail myself of an argument used by the other side. The representative of Guatemala states, at page 34 of his replica, that the jurisdiction given to colonial governors, was sometimes used as supplemental territorial legislation—but this has been only in cases where there are not special laws fixing the same—and then he follows this up by stating that in order that this supplementary legislation may be used, it is necessary that the jurisdiction therein conferred shall be *full, absolute, and without restrictions.* The rescript of 1563 fixes the boundaries for the governancy of Guatemala in the appointment of the governor. The rescript does not state that those are the boundaries of the Province, and by the admission of the other side, it appears that that governor never exercised either full or partial jurisdiction for a single day, in the territory claimed, whereby it resulted that said rescript was ineffective, according to his own arguments, however much he may try to apply them also to the case of Governor Juan de Vera, in which this did not occur, as I will show.

I agree that in order to interpret the law it is necessary to ascertain the cause which gave rise to it, and, I would add, also the history. The history of the rescript of 1563 is given by Juarros in the passage cited at page 20 of my replica, and that historical account is more credible than that which Bancroft mentions as a possible explanation why the King remedied the situation by repealing that of 1563, because only in that manner was a real punishment inflicted. The reason for the demarcation of the boundaries of the governancy of Guatemala is given by the King in the preamble, when he states that he had decided to transfer the audiencia to Panama and appoint Luis de Guzman, the ex-governor of Panama, to the office of governor of Guatemala; and as neither one nor the other thing was done, in the rescript of 1564 he repeats, as though he had not previously stated his purpose of transferring the audiencia and governor of Panama, who no longer was Guzman, but Juan de Busto Villeges. The audiencia was restored to Guatemala a few years later, with its previous jurisdiction over all of the Provinces of the Kingdom of Guatemala, and there was therefore no further reason for the further existence of the dividing line between the two audiencias, running from the Ulua to the Gulf. Hence, even though the royal rescript of 1564 had never been issued, the annexation of Gracias a Dios and San Gil de Buenavista to the governancy of Guatemala, which the King had ex-

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pressly declared in said rescript to belong to the Province of Honduras, would no longer have been in force. This interpretation is supported by that of Dr. Pedro de Villalobos, president of the royal audiencia, after its reestablishment in Guatemala, who, in his letter to the King, dated October 10, 1573, informs his Majesty of the events which had occurred in the governancy of Honduras, and in his account he treats San Pedro Sula and Puerto de Caballos as belonging to said governancy of Honduras, all of which shows that the royal audiencia at that time considered the royal rescript of 1563 as no longer in force. (Exhibit XXII, and the historical references contained in Exhibit XIII.) The representative of Guatemala must admit that Honduras, not having foreseen the latest claim which Guatemala has presented, was not completely prepared to combat it; but with the few documents which I brought, and those which I have found in the libraries and archives of this country, it has not been necessary to resort to those in Spain, where no doubt there would have been found many other valuable ones, which happily are unnecessary, as those heretofore and hereafter to be submitted should prove ample for the purpose.

In this country I have consulted the "Compilation of Laws of Guatemala," heretofore mentioned, and therein I find two treaties made by and between Honduras and Guatemala, which the representatives of Guatemala will recognize as of greater force and more binding than the royal rescript of 1563. The first of these treaties, made on May 12, 1839, when the federation was dissolved, states in article fifth the following:

As the Governments of Salvador and Honduras have manifested their firm intention of recognizing as an unalterable principle, that of the inviolability of the *respective territories* of the States, Guatemala considers that in order that the friendly offices which it proposes to interpose shall be effective, it is advisable to establish as a preliminary basis that the Governments of Honduras and Salvador shall maintain their armed forces within their respective boundaries, and that all hostility shall continue to be suspended. The Government of Honduras accepts, by this treaty, the mediation of that of Guatemala, on the basis proposed in this article, with the proviso that it shall likewise be accepted by that of Salvador, and the Government of Guatemala shall address itself to the Government of Salvador, offering like mediation, upon the terms expressed in this treaty.

The second treaty is the one made August 14, 1839, article first of which reads as follows:

Taking into consideration the deference which the Governments of Costa Rica and Nicaragua have manifested in their treaties of July 1 and 9 ultimo, for the purpose of having a reunion of the convention of States at Tegucigalpa, or *other point of Honduras, it is advisable that said meeting be held in the Llanos de Santa Rosa de Gracias.*

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These stipulations are incompatible with the claim which Guatemala bases on the rescript of 1563, because therein it acknowledges that Honduras and El Salvador border on each other, which would be impossible under the aforesaid claim. Furthermore, Guatemala therein acknowledges that Llanos de Santa Rosa de Gracias (or Copan, as it is now called) is in Honduras, and that town is situated in the western part of what was the ancient province or partido of Gracias a Dios, now included by Guatemala in her claim, which is thus definitely destroyed by those two incontrovertible laws.

GULF OF FONSECA.

It is not clear what advantage the other side seeks to obtain from my admission that that gulf and its surrounding territory belonged in the early times to Guatemala, which bordered on Nicaragua. I have only admitted a geographical fact, which history confirms, but which ceased to exist long before the independence. At this point let me add, however, that that territory is not the subject of the present boundary dispute with Guatemala, because it does not border on the latter country, but only on Salvador, which at that time did form a part of Guatemala. This latter has been accepted in a definite manner by Guatemala, in the treaties with Honduras of 1839, from which I have hereinbefore quoted. But if Guatemala should at any time attempt to regain this Salvadoran territory as its own, and through that medium seek to acquire that which Honduras possesses on the Gulf of Fonsecca, that would be the occasion when my country would have to controvert it.

ROYAL RESCRIPT RELATIVE TO JUAN DE VERA.

This document, which has received so much attention at the hands of the representative of Guatemala, in substance and in form contains all of the qualifications which the former attributed to the royal rescript of 1563, and more so, because it gives to said official, plenary jurisdiction. It is, like the former, the appointment of a governor, but through the change in the administrative system, it also was the appointment of a "comandante de armas" (military commander), in order that it might comprise in its jurisdiction the alcaldia mayor (sort of free city) of Tegucigalpa, which was independent of the governancy and any other place or territory, because for periods of greater or lesser extent, in some fortresses and mining districts the officers were appointed by the president of the audiencia of Guatemala, as may be seen in the "Memorial and Ecclesiastical and Royal Date Regarding the Empire of the West Indies," of Juan Diez de la Calle (Exhibit XXIII), and it was the King's wish at that time to constitute the Province definitely, with plenary jurisdiction in both political and military matters.

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The other side endeavors to show that this jurisdiction was revoked, and it was so stated also in their replica. In my duplica, I replied that I had not found anything in the reales ordenes (royal orders), to which the other side refers (one of which was copied anew under the title of real cedula [royal rescript]), indicating such revocation, but the other side has failed to indicate such passages. On the other hand, I desire to call attention to the instructions given by the King to Francisco Cagigal de la Vega, captain general of the Kingdom, issued at Buen Retiro under date of January 3, 1747, which relate to the royal rescript here under consideration (Exhibit XXIV), in which the King expressly states:

"And inasmuch as the resolution then taken on the points therein comprised *is to subsist in its entirety* as being important and advisable for the purposes which gave rise thereto, with the exception of the free exercise of his powers, because (as has been stated) they (de Vera and Heredia) are to act from the moment you take command of the Kingdom of Guatemala, with absolute subordination to you, giving you an account of whatever they may execute."

Neither in this paragraph nor in the others of the aforesaid instructions, as also in none of the royal orders transcribed by the other side, is there anything to indicate a modification of the boundaries or a revocation of powers. On the contrary, in the paragraph hereinabove transcribed, there is full ratification of these, without any difference whatever other than that of leaving Colonel de Vera, as his predecessors in office had been, subject to the jurisdiction of the captain general of the Kingdom, in military and fiscal matters.

I stated in my previous memoranda, and I now repeat, that this royal rescript granted no new territory to Honduras, but that it ratified the boundaries which it then already had. In my memoranda I stated that I would briefly set forth the grounds on which the claim of Honduras is based, but I reserved the right, naturally, of presenting the other documents which I had or might thereafter find. As a matter of fact, the necessity of verifying the allegations in this respect of the representative of Guatemala led me to read more carefully such documents as I had, and also enabled me to find others. Thus, in my replica I cited the agreement of the two adelantados, made in the island of Cozumel, heretofore transcribed, which related to the boundaries between the Provinces of Yucatan and Honduras; the letters of Alvarado, in which he admits that said Provinces bordered on each other, and that that of Guatemala had no Atlantic coast, and the "demarcation and division of the Indies." As the other side contests the value of the last two documents, I shall again specifically refer to them.

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LETTERS OF PEDRO DE ALVARADO.

His excellency, Dr. Toledo Herrarte, is doubtful of the authenticity of the letter of November 20, 1536, because, according to some historians, the adelantado left for Spain in July or August of that year. If for no other reason than the fact that the original of said letter is in the official archives in Spain, it is more logical to believe that the historians are in error, especially so as they are modern. But there is still another reason: If the adelantado had gone to Spain in the middle of that year he would have been there at the time his letter arrived and the lack of authenticity of the letter would have been discovered, principally because he had gone there to settle the very matters to which the letter referred. Besides, in the letter of 1539 Alvarado asked the King to leave him, as a matter of grace, the port of Caballos, and in the same letter, in submitting to the King for his approval the exchange of Provinces which he had made with Montejo, in return for which he had received that of Honduras, Alvarado mentions Puerto Caballos as belonging to Honduras, which, like the port, were necessary, according to his statement, for the Government of Guatemala. Thus he ratified the statement he had made in 1536, to the effect that that section of the country did not belong to Guatemala.

DEMARCATION AND DIVISION OF THE INDIES.

The representative of Guatemala states that this document is anonymous. It is true it does not appear to have been signed, but due to its importance it has been the object of special investigation on the part of historians. Justo Zaragoza, in his preface to the work entitled "Universal Geography and Description of the Indies," by Lopez de Velasco, states that this manuscript was used by Antonio de Herrera, chronicler of Castille and chief of the Indies, to transform it into an introduction to his "Decades," and in truth, on reading said work by Herrera, published from 1601 to 1615, it will be recognized, with minor differences, that it is the same document, and therefore it was given the sanction of this noted historical author.

In speaking of the Province of Verapaz, Herrera says: "It is also *mediterranean*, lying between the limits of Soconusco, Chiapa, Iucatan, *Honduras*, *Guatemala*, etc." This document is confirmed by the "Account of the Coasts of Yucatan, Taken from that Written by Father Diego de Landa" (who was bishop of Merida), written in 1566 and published by the Royal Academy of History of Madrid in 1900. In describing the Province of Yucatan, Father Landa says: "*To the east lies Honduras, and between Honduras and Yucatan*

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there is a large inlet of the sea, which was called Grijalva Baya de la Ascencion, which is full of islets in which vessels lose themselves principally those plying between Yucatan and Honduras, etc." (This work is to be found in the Library of Congress.)

This is also confirmed by Juan Francisco Molino Solis, in his "History of Yucatan During the Spanish Regime," volume 1, published in Merida, 1904, in which he states, at page 240, the following:

Licentiate Pablo Higueras de la Cerda was lieutenant of the governancy (of Yucatan), having been appointed by Ordonez on December 10, 1594 (data obtained from Liber 3 of the Resolutions of the City Council of Merida). Shortly thereafter, on January 13, 1595, he designated Captain Ambrosio de Arguellas to explore the coast line of the Bay of Ascension, where, on account of the thickness of the forests and the difficulties of the roads, the Indians continued without subjugation. The plans not only included conquering the inhabitants along the coast of Ascencion, but also extended the expedition to the southeastern section of the peninsula, up to the boundary with Honduras, etc.

Further on, at page 249, the author states:

During the government of Compero (José), it was felt throughout the Province that there was grave danger threatening the latter from the permanent occupation which had been made by fillibusters of the island of Terminos, and of a point on the eastern coast, near Honduras, which latter was called Belize, etc.

It is thus shown by these documents, and by those cited in my replica, from letters A to Q, and in my other memoranda, that Yucatan bordered on Honduras, and the two Provinces, with Verapaz Inland, and consequently it is with those boundaries that Pedro de Alvarado received the Province of Honduras when he made the exchange with Montejo, and it was with the same boundaries that the King made the appointment of Juan de Vera, as governor, in 1745.

MAPS.

All of the maps which I have examined, dated prior to the independence, commencing with the seventeenth century, which are over sixty in number, published in different countries, but principally in Spain, give to Honduras some territory on the western side of the Motagua, of a greater or lesser extent. The unanimity of the cartographers in that respect is truly rare, and proves that this was a well-know fact during that long epoch. The maps by themselves could always serve to throw light on the question, in the absence of other documents, but there also being an abundance of the latter, they are of greater value, in that they confirm each other. The most important of these maps I shall submit to the mediator when I conclude the compilation of all of my evidence. I do not at this

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point wish to enter into a detailed discussion of them, because I wish to leave that to the American lawyers, who will do so in their brief.

LAND TITLES.

The grant which the State makes to individuals or corporations, of the ownership or use of land, is the most perfect expression of the country's sovereignty therein, and the title deed which the Government of the country issues is, in consequence, complete evidence of the exercise of that sovereign right. If two towns in the same State dispute their boundary line, and one of them presents a title deed to the land, which has been granted on the basis that the land is within its jurisdiction, the boundary of said land would constitute said boundary line. The same can be said where two Provinces in the same country have a similar dispute. The boundary convention in force between Guatemala and Honduras declares that there shall be considered as territory of each of the two States *that which they had at the time of the declaration of independence in 1821.* Consequently, title deeds issued by the Sovereign of the two countries, to lands which he declared were situate in the jurisdiction of one of them, prior to that date, constitute the best evidence that such lands were within the limits of the respective Provinces, and particularly if subsequent thereto, that Province has continued to exercise its sovereignty over the same territory in judicial matters, such as that of testamentary proceedings, and other similar ones. This is of the greater force where these acts have been executed at the request of the judicial authority of the border Province, as has happened in many cases along the frontier between Honduras and Guatemala, as I shall show by the documents which will be submitted in due course.

If boundary disputes which have been discussed in America had had grants of lands made along the disputed line, it would have been very simple to have settled such disputes. This was the case in the demarcation of the dividing line between Honduras and Nicaragua, from the Gulf of Fonsecca to Teotecasinte. But unfortunately, such cases have been rare, and the rule has been that such questions arise regarding uninhabited territory or lands that were unoccupied prior to independence. Fortunately, in the case here under consideration, we have an indisputable starting point, which is the common terminus of three nations, and a continuous line, made up of lands granted to individuals, towns, or communities, if not on both sides of the line, at least on one of them, up to a point indicated by nature as the natural boundary line, which is a river.

Title deeds issued subsequent to 1821, while they may not serve as evidence that the lands they cover were included in the respective

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Provinces, prior to the date of independence, do serve to establish actual possession on the date of their issuance, which carries with it a presumption of indefinite prior possession, until the contrary is proved. This is the case in regard to the title deeds issued prior to the convention of 1895, and their force increases according to their proximity in date to the independence, and still more so, if the grants were made at a time when Honduras and Guatemala were both States, members of a single nation, under a common Federal Government, possessed of sufficient authority to put an end to any differences that might arise between them. (Article 137 of the Constitution of the Federal Republic of Central America, dated November 22, 1824.)

CONCLUSIONS AS TO THE BOUNDARY LINE.

I believe that it has been duly established by the arguments and documents cited in my memoranda, that Honduras has a perfect right to the following boundary line with Guatemala:

First. From Cerro Brujo, which is the common terminus of Guatemala, Salvador, and Honduras, to Cerro Obscuro. Cerro Brujo, the starting point, was recognized as such by the mixed commission in Minutes V of July 9, 1908, and Minutes VI of July 16 of the same year. From these minutes I quote the following:

It was agreed to record that all of the mountain which surrounds the head of the Anguiatu River (formerly Inguiatua or Anguiatuya) and of its tributaries the River Ingerto and the Quebrada de Yerbabuena, is called El Brujo, in accordance with the title deeds to Granadilla issued in 1798 in Guatemala and Montana del Brujo, for which title deed was issued in 1817 in Salvador, *and Cerro Brujo is the particular name of that which marks the common terminus of the three Republics;* and that the said Cerro is considered as such terminus of Guatemala and Salvador, because if it is true that the recognized boundary line between the two Republics is the Anguiatu River (called the River Negro or Brujo Zapote where it rises), it must be understood that it is up to the point where the dividing line doubles at the foot of the said Cerro to ascend in a straight line to its summit, where the three countries converge. * * * 4th. The mixed commission for determining the boundary between Guatemala and Honduras agreed also to accord a vote of thanks to the Government of Salvador, for the good will with which it consented to collaborate in the work of fixing the aforesaid boundary point, and for the courtesies and attentions which it has seen fit to extend to the commissioners, during their entire stay in Salvadoran territory.

From the first of the minutes above mentioned, I quote the following telegram:

To Engineer Claudio Urrutia, Guatemala, July 3, 1908: Received at Esquipulas at 9 a. m. You having perfect assurance that Cerro Brujo, already recognized as per your telegram of this day, is *the meeting point of the three Republics*, you are hereby authorized to accept the intervention of the Salvadoran commissioner, only in so far as relates to that point, and please manifest to the Salvadoran commission that as this relates to a matter which affects the three Republics, I could not invite them sooner to work in conjunc-

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tion, because this Government had not been informed until now that intervention of Salvador was necessary, although this was not so stipulated in the convention made with the Government of Honduras. Please also manifest to the Honduran commission that it would have been better had both commissions agreed upon and secured from their Governments a joint invitation addressed to that of Salvador.

Cerro Obscuro was surveyed after studies had been made by the engineers of both commissions, there resulting only a difference of a few hundred meters as to the dividing point, as is recorded in Minutes XVII of March 7, 1910, in the following quoted paragraph:

From the confluence of the Quebrada del Incienso with that of Brea, the line proposed by the Honduran commission passes to the summit of Cerro Obscuro or Barbasco, which point with some slight differences, has been accepted by both commissions.

As to the line connecting these two cerros there was a difference in the line drawn, but I have already stated that it is of minor importance, and can be settled very readily, either by following the line of the ancient land titles of Guatemala in that part of the line where Honduras has only title deeds subsequent to the date of independence, or by following the title deeds of both countries, where these are to be found, on both sides of the line. The difference either being determined by a straight line, or by seeking a natural and stable boundary. Second. From Cerro Obscuro to the parallel of the Ruins of Copan. On this line is to be found Portillo de Caulotes, or Coyoles, which, although not accepted by the Guatemalan commission, is of record in the title deed to Tapesco de Avila (1754), submitted by me as Exhibit IX with my duplica. This boundary can not be disputed, because the engineer who surveyed it declared that it was the boundary line between the Provinces of Chiquimula and Gracias a Dios, and the record of proceedings had thereunder was duly approved and the title issued with that recital.

Between Cerro Obscuro and Caulotes, there are to be found on the Guatemalan side, lands entitled "Miramundo," "Chanmagua," "Pasalja," "Sulay," "Jupilingo," "San Jose," and "Coloyes," measured in the Province of Chiquimula in a continuous line, prior to independence, and the lands "Remudadero y Pozas" and "Playon," measured in Guatemala in 1817, and title issued the former in 1846, and the latter in 1857, but always disputed since the earliest times. The proceedings for patenting titles having stopped, by a writ of amparo sued out by the Indians of Merendon, of the Province of Gracias. On the Honduras side, and not in conflict with the boundaries of the lands hereinabove mentioned, there have been measured, as belonging to said State, the public lands called "Merendon," (1836), "Joconal" (1877), "Planes" (1845), "San Francisco de Formax," or "Tixiban" measured in 1817 in Guatemala but title

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issued in Honduras, with the consent of the Guatemalan authorities and of the original claimant, in 1847, and "El Potrero" (1730). Back of these lands of Honduras, there are many others, measured in this country subsequent to independence, which will be mentioned upon the final presentation of the evidence in this case; and prior to 1821, those of "La Estancia," or "San Nicolas" (1628), and "Hornillos" (1722). These deeds reciting similarly to those of El Potrero and Tapesco that they are situate in the Valley of Copan, in the jurisdiction of Gracias a Dios, Province of Comayagua, or Honduras.

As has been shown, the line can be drawn following along the boundaries recited in ancient title deeds, on either one or both sides, unless by common agreement a straight line be drawn, or a natural boundary be sought as far as possible, which shall approximately follow said line, subject, of course, to mutual compensations.

From the boundary of Caulotes, the boundary line follows the line of the lands of Tapesco to the southwestern boundary point entitled "Las Cruces," in the Llano of "El Jicaro," which is a boundary point of "El Jute," a little to the north of the parallel of the Ruins, and this line was surveyed by the engineer who was commissioned to ascertain the dividing line between the two Provinces.

Third. From said boundary point of El Jute, which lands were measured in 1722 in the Valley of Copan in Gracias Dios, the line continues to the cerro called "El Chaguites," thence along the boundary of said land, which was measured in Gracias a Dios in 1736, which separates it from Pexja, measured in Guatemala in 1741, the line continues to the cerro called "Barbasco" and to that of "Suspiro de Tisamarte." From this point, the line follows along that of Pexja to its farthest northwest boundaries, to the junction of the Quebrades called "Las Vegas" and "Sururuian," where it borders at that point with the Sitio called "Managua," measured in Honduras in 1885. From said boundary point, the line continues along the boundary of said Sitio of Managua, to the river bearing the same name, and following the course of this river downstream to the Motagua. Back of Tapesco, El Jute, and Chaguites lie the lands entitled "San Nicolas Tolentino" (1728), "San Miguel de Copan," formerly "Petapa" (1729), "El Salto" (1730), "Llano Grande" (1729), "Sesesmiles" (1781), "Agua Fria" (1888), and others of recent date.

The Managua River is situate at the foot of the Copan Cordillera, which is a spur of the Sierra Madre, which, intersected by the Motagua, continues on the other side near to Santa Tomas de Castilla. This cordillera is the one recommended by Larreinga and Marrure

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as the dividing line, but Honduras, following tradition, and because the Managua was the clearer boundary, has preferred the latter, although it was to the benefit of Guatemala.

All of the above will be very clear upon an examination of the maps which I shall present, wherein I have indicated the lands to which reference has been made.

On the same map appears the possession line drawn by agreement of the engineers of the two countries, up to the parallel of the Ruins of Copan. According to said line, on the Honduras side there are no lands, title to which was issued in Guatemala prior to independence, and on the other hand, it gives to Guatemala those of Remudadero y Pozas, which were disputed, the greater portion of Playon, also disputed, part of El Potrero, and the greater portion of Tapesco, title to which lands was issued in Honduras. Guatemala also has possession of the lands entitled Jute and Chaguites. Guatemala has obtained possession of some of these lands after 1880, when said lands became the property of Guatemalans who have readily submitted to its jurisdiction, as will be shown by documents hereinafter to be submitted.

Fourth. The Motagua River belongs to Honduras, according to documents heretofore cited. It is the boundary line recognized by Guatemala, without any claim whatsoever to the contrary until after the first half of the nineteenth century, as has been shown by documentary evidence already submitted.

From the mouth of the Managua, where it empties into the Motagua, a line has been drawn up to Gulfo Dulce, and from this point to Belize, which in my memorandum I indicated had not been studied by the Honduras engineers, because Guatemala would not permit them. By taking the line conversely, it may be drawn thus: From the mouth of the Sarstoon River, which is the present boundary of Belize, because of the cession thereof made by Guatemala, instead of the ancient boundary with Yucatan, which ancient documents gave to Honduras, and along the course of said river, until it meets the Province of Verapaz, following the boundaries of this Province up to the Motagua River, unless the former sooner meets Chiquimula, whose boundary shall be followed, that is to say, that of Zacapa, because in ancient times they were united. The point where this line strikes the Motagua has already been indicated as at the mouth of the Managua River.

The demarcation of this territory to the west of Motagua is supported by the numerous documents which have been cited or copied. Furthermore, it is supported by ancient possession subsequent to independence, of a part of this territory, as will be seen from the following extract of a document filed by the Guatemalan commission, which document was inserted in the minutes of the

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meeting of the boundary commission, held at Ocotepeque on March 7, 1916, which reads as follows:

Ministry of Government, Justice and Ecclesiastical Affairs. To the Minister for Foreign Affairs, Government Palace, Guatemala, October 12, 1865. Sir: I have the honor of enclosing herewith copy of two communications addressed to this ministry by the corregidor of Chiquimula. * * * To the Minister of Government, Justice and Ecclesiastical Affairs, Chiquimula, August 28, 1865. Julian Vides, a resident of Esquipulas, has appeared in this corregimiento, praying for protection in the peaceful possession of his lands, situate in the place called Cuchilla which several residents of Honduras are claiming as belonging to that Republic * * * Mr. Minister, I am of the opinion that through the proper channel, an energetic protest should be made by the Supreme Government to the Government of Honduras, in order that this department may once more enter into the possession of some of the lands, which, through pure condescension, it has permitted the latter to possess; because I think that the time has passed when ambitions of conquest have been attributed to Guatemala.

As I duly informed you, measures could well be taken, following the action which I took at Izabal, concerning more territory than that now under dispute, by which an officer with armed troops can be sent to remove the Honduran authorities from four villages situate there, and appointing new ones for Guatemala, and compelling them to recognize the boundary line which they must respect, but I took that action, taking advantage of the fact that we were then at war with Honduras, which action passed here unnoticed. But now that the two countries are at peace, it seems to me that we should take similar action, and with interest, because I do not doubt that once this is accomplished, and a lieutenant corrigador is appointed, having his residence at the town of Esquipulas, our frontier line would be well respected, the municipalities would be at ease, as well as the proprietors, who are now complaining, and the administration of justice would be more expeditious. Please, Mr. Minister, communicate this to the superior authorities of the Supreme Government, and advise me of its resolution, in a matter of so much importance to this department. God keep your excellency many years. Juan B. Peralta.

The war referred to in this document must have been that of two years before, namely, 1863, which took place between the two countries, it is to be inferred from the text. Thus, up to that date, Honduras exercised sovereign jurisdiction in four of the villages of the district of Izabal.

The representative of Guatemala is seemingly under a misapprehension in stating that I have declined, on behalf of Honduras, to arbitrate the boundary dispute. Quite to the contrary, at the time the Government of the United States invited Honduras and Guatemala to enter into an arbitration treaty, my Government accepted. Subsequently, this Government offered its meditation, in order that these conferences might be held under its friendly auspices. In the course of these conferences, I have orally stated that my Government always would have preferred to have submitted this dispute to arbitration, upon the basis of the issues as they had been discussed up to that date. It is quite true, as has been stated by the

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representative of Guatemala, that mediation having been accepted, the object sought is that the friendly nation shall advise us as to the best solution and not that it shall make an award. But as a matter of fact, the distinction in the present case appears to be one of form rather than of substance. In view of the fulness with which both parties have discussed the matter, their repeated statements that they wish to arrive at a just and friendly settlement, and in view of the confidence which Honduras and Guatemala have in the impartiality and justice of the United States, and the latter's traditional friendship for both countries, I feel certain that the honorable mediator will proceed in this matter with the same righteousness and learning with which he would have made an arbitral award.

The representative of Guatemala is inclined to believe that certain statements contained in my replica and dúplica partake somewhat of the nature of a threat. This is an unfortunate error, because I would never consider such action justified, and least of all, where we are discussing the question before the honorable mediator. It will be sufficient for me to remember the antecedents which gave rise to this conference. In said memoranda, I have confined myself to pointing out a possible danger, and to indicating the consequences that might arise from a failure to arrive at an understanding on this auspicious occasion; and I have also considered it advisable to do so, in order that the representatives of both countries shall take it into consideration, and make greater efforts to arrive at a satisfactory conclusion.

Guatemala will be convinced that there is in Honduras no lack of equity nor preconceived desire of depriving a sister country of any part of its coast or maritime points, situate on the western side of the Motagua River, because even though the former should be unable to show, by means of authentic documents, not necessarily royal rescripts, that its possession thereof is just, lawful, and well founded, I repeat what I have stated on other occasions, that a way can be found to reconcile the interests of the two countries in a truly fraternal spirit.

The representative of Guatemala is of the opinion that the reestablishment of the old Central American Fatherland would not be the means of adjusting the boundary question. I agree that it would be much better if the dispute were finished before that event. But if, unfortunately, this should not happen, a sure method would still remain, to avoid any possible difficulties, which would be that of strengthening the fraternal bonds which link the two countries, by uniting Guatemala and Honduras, together with one or more of the former Central American States, into a single nation. Then, if a federal form of union should be established, and the boundaries of the respective states should continue, a central power would be

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created, to decide all possible controversies. In that case, and at all times, the greatest service which the mediating Government could render to those countries, would be to offer them its valuable cooperation in arriving at the union so much desired.

But I have full confidence that at this conference there will be definitely settled this prolonged and troublesome dispute.

(Signed) P. BONILLA.

WASHINGTON, *August 27, 1918.*

[Translation.]

HONDURAN SPECIAL BOUNDARY COMMISSION IN THE UNITED STATES OF AMERICA.

1738 P STREET, *Washington, August 31, 1918.*

YOUR EXCELLENCY: As promised in my note of the 28th of the current month, I inclose herewith to your excellency the exhibits to be attached to the amplification of my dúplica of June 27th.

Contrary to my original plan, I have thought it best to ask instructions from your excellency regarding to whom I should deliver the duplicate copy of my said amplification and exhibits, intended for the Guatemalan commission.

I am, your excellency, your obedient servant,

(Signed) P. BONILLA.

To His Excellency Mr. BOAZ LONG, Minister, *Representing the Government of the United States of America as Mediator in the boundary negotiations between Honduras and Guatemala.*

[Translation.]

EXHIBIT XIII.

(Historical accounts and rectifications.)

Alvarado, González, Davila, and Montejo.

1. " * * * Judging that that was a favorable occasion to get away without loss of prestige from the licenciado Maldonado oidor (associate judge) of the royal audiencia of Mexico, who was going to conduct his residencia (a proceeding whereby in ancient times an official was examined at the conclusion of his term) with special instructions to send him back a prisoner to Castile, he decided to aid those in Honduras, it seeming to him that in some manner he would

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thus increase the obligations arising out of his service, etc." Decada VI, Libro I.

Antonio de Herrera, "Historia General de los hechos de los castellanos en las Islas y Tierra Firme del Mar Oceano," Madrid, 1615. (Herrera chronicler of Castile and Chief of the Indies in his dedication of the book to Phillip III, says, "and this was what moved the King our lord of glorious memory, father of Your Majesty, to direct me to undertake this work and Your Majesty to direct me to continue it, etc.")

2. "With the arrival of the adelantado (1539) the country became restless and unsettled and the miserable natives prayed that the mountains would fall on them and cover them over, and prayed the earth would swallow them up in order to escape the fury of the adelantado who was threatening them. This was not the first time that he inspired them with this horror and fear like chicks that see the hawk hovering over them. Liber II, Chapter XX.

Antonio de Remesal, "Historia de la Provincia de San Vicente de Chiapa y Guatemala de la Orden de Nro. Glorioso Padre Sancto Domingo," Madrid, *1619*. (Remesal states in his dedication of this book to Count Gomera, President and Captain General of Guatemala: "Because your excellency has been so solicitous in placing books and papers at my disposal and in causing search to be made in the archives of the cities in your Government and taking other steps in order that this work might be advanced, so that your excellency is more entitled to be called the author of it than I who compiled and edited it.")

3. "The risk seemed inevitable but he saved it in the shadow of the turbulence which agitated Honduras. Suddenly fitting out an expedition he proceeded to said Province and having accomplished his object sailed thence to Habana with the intention of securing at court his vindication, and left the judge of residencia in the lurch in Guatemala."

Jose Fernando Ramirez, "Noticia Historica de Pedro de Alvarado," Mexico, *1847*.

4. "But despite the secrecy which he maintained Alvarado received information of the threatened danger and under pretext that he was going to aid the settlers in Honduras who were being exploited by Cereceda, their governor, he went to Naco." Page 55.

Rafael Aguirre Cinta, "Lecciones de Historia General de Guatemala," Guatemala, *1899*.

5. "* * * but Alvarado learned in time of the danger which threatened him and tried to escape. Fortune gave him a magnificent

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opportunity for absenting himself from Guatemala before the arrival of the visitador (inspector), etc."

Santiago I. Barberena, "Historia Antigua y de la Conquista del Salvador," San Salvador, *1914*.

6. "In 1536 Alvarado went to Honduras in order to supply the settlers located there with the supplies which they needed and thus avoided meeting the judge who was about to arrive at Guatemala for the purpose of examining him in the residencia proceedings.

Claudio Urrutia, "Memoria sobre la cuestion de limites entre Guatemala y Mexico presentada al Señor Ministro de Relaciones Exteriores." (This work appears in the report of the said Ministry of State of Guatemala to the National Legislative Assembly in 1900.

7. "* * * As appeared Gil González had come as governor and captain of Golfo Dulce, and had populated a town called San Gil de Buenavista, which was about a league from the port which they now call Golfo Dulce, because the Petchin River at that time was dotted with good towns, etc."

Bernal Diaz del Castillo, "Historia Verdadera de la Conquista de la Nueva España," Madrid. This work was written in Guatemala in 1568.)

8. "* * * stating that because he intended establishing a settlement in the Gulf of Ybueras that he judged from what had been seen and discovered that there was an entrance between which one could pass through to the Sea of the South, for which gulf his course was laid and he intended stopping there." Decada III, Lib. IV.

Antonio de Herrera, work above cited.

9. "According to an imperfect map which he had drawn Gil thought (and with reason) that the Bay of Fonseca must be found near the Gulf of Hibueras (Honduras) and he then proceeded in the direction of said latter, etc."

Pablo Levy, "Noticias Geograficas y Economicas sobre la Republica de Nicaragua," Paris, *1873*.

10. "Gil González was preoccupied with the thought of finding a strait through which he might pass from the Atlantic Ocean to the Pacific, and he decided to go to the coast of Honduras * * * and he expressed his intention of settling the coast of the Gulf of Hibucras and establishing there his headquarters and then proceeding to the Pacific Ocean.

Tomas Ayon, "Historia de Nicaragua," Granada, *1882*.

11. "After having undergone severe trials of all kinds Gil González proceeded to the Gulf of Honduras in search of the wished for communication between the two seas, etc."

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Miguel G. Saravia, "Compendio de la Historia de Centro-America," Guatemala, *1881*.

12. "Cristobal de Olid was sent from Mexico by Cortes to seize Honduras from Gil Gonzáles Davila, etc."

Claudio Urrutia, work above cited.

13. "He subsequently departed for Hispaniola, and from thence he proceeded to the coast of Honduras of Guaimura with the intention of finding the wished for strait which it was claimed connected the two seas."

Juarros, Guatemala, *1818*.

14. "* * * Your Majesty will be pleased to inform and give to said country (Yucatan) that to which it is entitled and to make me a grant, as Your Majesty is in the habit of doing to all who conquer and settle in Your Majesty's name, which is to grant from sea to sea, which is from the River Sant-Anton, which is before Grijalva to the River Petchin (Territory of Honduras) which is on the coast of the North, and from here may Your Majesty be pleased to grant me up to the Sea of the South," etc.

Letter from Montejo to His Majesty dated Veracruz, April 20, *1529*.

Amatique.

15. "The coast of this Province (Honduras) is all on the Sea of the North in the gulf which is called Honduras, which is all of the sea coast between this Province and Yucatan, where it joins the latter by Verapaz, etc."

Description of the West Indies by *Antonio de Herrera*, work above cited.

16. He states that the Province of Golfo Dulce was in spiritual matters in charge of the Order of the Religion of Mercy and that on account of the incursions of the pirates it was left in the hands of the bishop of Trujillo in 1549.

Juarros, page 163, Vol. 2, work above cited.

17. "* * * he arrived at the Gulf of Honduras (speaking of Cortes) and to the small settlement of Nito, where the governor of the Province who succeeded Olid was located, because the latter had soon paid with his life his treacherous conduct.

Urrutia, page 70, work above cited.

18. He inserts an act of the provincial legislature of Ciudad Real, which contains instructions to their representative, Father Pedro Jose Solorzano, to go to Mexico and apply for the annexation of the Province to the Empire. Paragraph 16 of the instructions reads as follows: "Guatemala is at present composed of the following Provinces and partidos (districts) * * * in all of which there is no other fortress than that of Golfo Dulce of Honduras, San

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Fernando de Omoa, etc." Although the instructions above referred to contain several errors, Mr. Urrutia underscores those which he considers as such.

Urrutia, page 89, report above cited.

19. In describing the partido (district) of Comayagua (Honduras) he includes San Gil de Buenavista in its jurisdiction.

Juarros, page 42, Vol. I, work above cited.

20. "Castilla (Santo Tomas) a town in the Province and Government of Honduras, Kingdom of Guatemala; it has á good harbor frequented by shipping." "Golfete, a small gulf of the Government and Province of Honduras. It is formed in the middle of the canal or channel in the entrance to the Gulf of Honduras." "Manabique (point) between the Gulf of Honduras and Triunfo de la Cruz."

Antonio de Alcedo, "Dicconario Geografico Historico, Madrid, *1786*.

Copan.

21. He states that in a place in the Province of Chiquimula de la Sierra towards the part where it meets Gracias a Dios in Honduras, the Indians are chontales. * * * "near said place as one proceeds to the city of San Pedro the first place *in the Province of Honduras which is called Copan* contains some ruins and relics of a great town and superb buildings, etc."

Diego Garcia del Palacio, Oidor de la Audiencia de Guatemala, Carta al Rey de Espana, desde Guatemala, 8 de marzo de *1576*.

22. "*This place* (*speaking of Copan*), which at present is only called a valley, is situate *on the dividing line* between the Provinces of Chiquimula and *Comayagua*, so that at times it has been in the jurisdiction of the former and at others, *as is the case now, in the jurisdiction of the latter*." The same author in speaking of *Copan*, at page 43, Volume I, includes it in the Province of *Honduras*.

Juarros, page 153, Vol. II, work above cited.

23. "1st. The necessary expenditures shall be incurred in order to obtain views and draw topographical plans of the ancient buildings and monuments of Kiche, Mixco in Tepam, Guatemala, and *Copan*. 2d. For this purpose two commissions shall be named, one for Tepam, Guatemala, and Kiche; and the other for Copan, and which shall have a mathematician and draftsman. * * * 4th. The said expeditions shall be aided by the local authorities, who shall be strictly enjoined for that purpose; if that destined for Copan should have to enter, as is probable, upon territory of Honduras, a communication shall be addressed to that Government calling attention to the importance of the work, in order that it may cause orders to be issued for aiding and facilitiating its object." (*Decree on Govern-*

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ment of Guatemala dated January 16, 1834, ordering that topographical plans be made of the places and ancient buildings of Kiche, Mexico, in Tepam, and Guatemala, etc."

Pineda de Montt, page 807, Vol. I, "Recopilacion de las Leyes de Guatemala" (The decree as above stated is dated 1834.)

24. "Ascending, we reached the top of a mountain, and saw behind us a beautiful valley extending toward Jocotan. * * * At half-past twelve we descended to the banks of the Copan River (p. 86). * * * We mounted again, and at four o'clock saw at a distance a hacienda, on the opposite side of a valley (p. 87). * * * The situation of the hacienda of San Antonio was wildly beautiful. It had a clearing for a cowyard, a plantation of corn, tobacco, and plantains (p. 88). * * * Somewhere on this road, but unmarked by any visible sign, we crossed *the boundary line of the State of Guatemala and entered Honduras.* At two o'clock we reached the village *of Copan*, which consisted of half a dozen miserable huts thatched with corn (pp. 90 and 91). * * * We inquired immediately for the ruins, but none of the villagers could direct us to them, and all advised us to go to the hacienda of Don Gregorio (p. 91). * * * From this time, that is, from the year 1700, there is no account of these ruins until the visit of *Colonel Galindo in 1836*, before referred to, *who examined them under a commission from the Central American Government*, and whose communications on the subject were published in the proceedings of the Royal Geographical Society of Paris and in the Literary Gazette of London. He is the only man in that country who has given an attention at all to the subject of antiquities, or who has ever presented Copan to the consideration of Europe and our own country (pp. 131 and 132). * * * *It (speaking of Copan) lies in the district of country now known as the State of Honduras*, one of the most fertile valleys in Central America, and to this day famed for the superiority of its tobacco (p. 132). * * * The ruins are on the left bank of the Copan River, which empties into the Motagua, and so passes into the Bay of Honduras near Omoa, distant perhaps three hundred miles from the sea. The Copan River is not navigable, even for canoes, except for a short time in the rainy season. Falls interrupt its course before it empties into the Motagua (p. 132).

John L. Stephens, "Incidents of Travels in Central America, Chiapas, and Yucatan," New York, 1846. (Stephens was in Central America on a special confidential mission for the Government of the United States commencing 1839).

25. Colonel *Galindo* to whom Stephens refers in the above extract wrote the following letter from the ruins: "*Scientific Commission of the Boundary between Honduras and Guatemala.* Copan. April 26, 1834. To the Citizen Minister General of the Supreme

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Government of the State. On the 22nd ultimo I had the honor of advising you from the city of Guatemala of my coming departure for these ruins and I have arrived here this day. *The dividing line between the States of Guatemala and Honduras passes through the Hacienda of Caparja, four leagues before reaching this point; and so the relics of these ancient ruins are entirely within the boundaries of this State.* I avail myself of this opportunity for repeating to the Citizen Minister my respects. God, Liberty and Union. Juan *Galindo.*" At the foot of the Galindo note there is the following memorandum: "*Supreme Government, Comayagua, June 12.* Answer that the Government is pleased to know that the wishes of that of Guatemala have been complied with and that in order to furnish him with greater facilities *it has ordered the acting chief of the department* to render him all possible aid and that it expects that Commissioner Galindo will notify it of the result of his commission by stating of what the last relics of the city of Copan consist. Rivera. Complied with."

26. "*Close to this spot (speaking of San Jose in front of the River Jupilingo) was a cross on a slight eminence which marked the boundary between Guatemala and Honduras.* In less than two leagues, after crossing this boundary, we arrived at the ford over the Copan River which is here broad, swift and deep. * * * At four leagues from Copan we reentered Guatemala, and breakfasted at the very flourishing hacienda of Caparja, which is prettily situated in a valley."

J. W. Bodden Whetham, "Across Central America." London, 1877.

27. Speaking of Copan he states that the last Tolteca king emigrated to Honduras and established his residence at Copantl (page vii of the preface), and at page 221, Vol I, of his history he states that after the Province of Chiquimula had been subjugated the Spanish chiefs decided to *go on* against the great city of Copan. This shows that Copan was not in the Province of Chiquimula. Further on he refutes Brasseur de Bourbourg where the latter states that Copan is near Chiquimula and that at the time of the Indians it was the capital of the kingdom bearing the same name.

Milla, "Historia de la American Central," *Guatemala, 1879.*

28. This author also confirms the statement that the last Tolteca king fixed his residence at Copan, Honduras.

Augustin Gomez Carrillo, "Estudio Historico de la America Central," 3a, edicion, Madrid, 1886.

29. "(Votan) founded the cities of Hushuetlan, Palenke, and Zacatlan in territory of Chiapas, Utatlan in Guatemala, and Copan in Honduras"

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Urrutia, page 64, report above cited.

30. The above extracts show that *the valley of Copan belonged to Honduras* from the period of the conquest and has continued under this sovereignty to the present time. It is also confirmed by the *land titles* in existence in said valley, the oldest of which was issued in the year *1628 and the last in 1781*, which title deeds will be submitted in due course and have been referred to in the amplification of the duplica of Honduras, and it is corroborated by other authentic documents to the beginning of the nineteenth century near the date of independence. In the valley of Copan are to be found the famous ruins bearing the same name.

Gracias a Dios, Tencoa, San Pedro Sula y Puerto Caballos.

31. "Passing these Provinces of Guatemala and of Verapaz and the Kingdom of Yucatan, which lies in back of it, there follows those called Gracias a Dios and Comayagua, and the valley of Ulancho and Zula and Naco going eastward inland between the two seas. * * *"

Bartolome de las Casas, "Apologetica Historia de las Indias," *15*.

32. "The last of the towns whose office became vacant in Guatemala by the death of the adelantado Your Majesty already knew prior to my departure and those *in this Government of Honduras and Higueras* which became vacant are as follows: *In the municipal district of the city of Gracias a Dios, the towns of Tencoa, Jamala, and Posta;* in the districts of the town of Comayagua, those of Tecosquin, Hexamani, and Quorora; and in the district of the town of San Pedro, those of Naco and Cocumba. * * *"

Alonso de Maldonado, Presidente de la Audiencia de los Confines, en *Carta al Rey*, desde Puerto de Caballos, 15 de enero de *1545*. (Tomo 24 de la Coleccion Torres de Mendoza.)

33. "Juan Estrada de Ravago. D. Cristobal de Pedraza, bishop of Honduras, appointed him on July 9, 1552, curate and vicar of the town of San Juan de Puerto Caballos, etc." * * * "Marroquin appointed him on August 30, 1553, curate and vicar of the city of Gracias a Dios, etc."

Manuel Maria de Peralta, "Costa Rica, Nicaragua y Panama en el siglo XVI."

34. In speaking of the Province of Honduras he includes therein Puerto de Caballos, Gracias a Dios, San Pedro, and other towns.

Juan Lopes de Velasco, Cosmografocronista de Indias, "Geografia y Descripcion Universal de las Indias," *1571–1574*. Pages 306 a 316. Madrid, 1894.

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35. "*This Province of Honduras*, I am informed, has had no religious instruction for the Indians and at present has none except in the Province of Tencoa, where there is a house and monastery of our Lady of Mercy. * * *"

Pedro Ortiz, *Maestro Provincial, en Carta al Rey*, desde Comayagua, 15 *de abril* de *1578*. (Costa Rica, Nicaragua y Panama," Manuel M. de Peralta, obra citada, page 563.)

36. "In the Province, bishopric and Government of Honduras, there are cities with Spanish inhabitants, which are Comayagua, Trujillo, Gracias a Dios, Olancho, and the city of San Pedro. * * * The city of Gracias a Dios has the best climate of any in Province of Honduras. * * * The old audiencia which was called los Confines, was located in this city. * * * The city of San Pedro is six leagues from Puerto de Caballos."

Fray Alonso Ponce, "Relacion breve y verdadera de algunas cosas de las muchas que sucedieron al Padre Fray Alonso Ponce en las Provincias de la Nueva España, siendo Comisario General de aduellas partes," empezada el año de *1584*. "Coleccion de Documentos Ineditos para la Historia de España" por Miguel Salva y el Marques de la Fuensanta del Valle, Tomo LVII, Madrid, 1872.

37. In the part which refers to the Province and Government of Honduras he includes Gracias a Dios, Puerto de Cavallos, and San Pedro, etc.

Juan de Pineda, "Descripcion de la Provincia de Guatemala," *1594*, Archivo General de Indias, est. 58, caj. 6, leg. 28. Publicada en "Relaciones Historicas y Geograficas de America Central," Madrid, 1908.

38. In Chapter XIII, which is entitled, "Honduras, Nicaragua, and Costa Rica," in speaking of *Honduras* he names the city of Gracias a Dios, the town of San Juan de Puerto de Cavillos and Golfo Dulce port to Guatemala.

Antonio de Herrera, "Descripcion de las Indias Occidentales," obra ya citada Madrid, *1601*.

39. He states that the president of the audiencia of Guatemala fills the places and offices of corregidor of *Tencoa in Honduras* and alcaldi a mayor of *Santo Tomas de Castilla in Honduras*, and that in said Province are to be found the towns of San Pedro and the city of Gracias a Dios.

Juez Diez de la Calle, "Memorial y Noticias Sacras y Reales del Imperio de las Indias Occidentales," *1646*. ("Comprehende lo eclesiastico, politico, y militar, que por su secretaria, de la Nueva España se prouee; presidios, gente, y costas, valor de las Encomiendas de Indias, y otras cosas curiosas, necesarias y

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dignas de saberse." *Diez de la Calle era, Oficial Segundo de la misma Secretaria*, y por lo tanto es autoridad.)

40. * * * Through the country of Comayagua, "commonly called Honduras." * * * "The chief place in it for health and good living is the valley which is called *Gracias a Dios*. There are some rich farms of cattle and wheat; but because it lieth as near to the country of Guatemala as to Comayagua, and on this side the waies are better than on that, therefore more of that wheat is transported to Guatemala and * * *".

Thomas Gage, "A new Survey of the West Indies," London, 1648.

41. "Puerto Caballos. On the coast of the north of the Province of Honduras this was the port of entry and export of merchandise" (the Governor of Honduras Don Pedro de Godoy, commissioned Castro Ayala to visit the port on official mission, and as the latter was taken ill "he returned to the city of Guatemala without having executed anything of value in Puerto Caballas").

Agustin Gomez Carrillo, "Historia de la America Central," obra continuada bajo la administracion del Señor General Don Jose Maria Reyna Barrios *y en virtud de encargo oficial*, Tomo III, cap. I, pags. 2–4, al referirse a los sucesos de *1686*.

42. "Tranquil and restful was the habitual appearance of *Honduras* and a profound silence due to the absence of traffic reigned in such a vast territory. *At Comayagua* were the health and brain of the Province and the governor gave his orders from that place *to his delegates located in the districts of* Olancho el Viejo, Yoro y Sulaco, Olanchito, San Pedro Sula, Gracias, and Tencoa."

Gomez Carrillo, "Historia de la America Central," Tomo III, cap. IX, pag. 163, al referirse al ano de *1719*.

43. "It being necessary to make war on the zambos by sea it will be advisable to set forth here the ports which are found on the coast of the three Provinces of Honduras, Nicaragua, and Costa Rica. * * * The port *of Omoa* is to the east of Castillo del Golfo and in the same direction as that of Caballos. It follows that of Sal. * * *"

Pedro de Rivera, Capitan General de Guatemala, on "Noticias sobre los mosquitos y medios de exterminarios," Guatemala, 23 de noviembre de *1742*, Archive de Indias de Sevilla, est. 65, caj. 6, leg. 34 ("Costa Rica y Costa de Mosquitos," por M. M. de Peralta, pags. 119–122).

44. "All of the Provinces of the Kingdom of Guatemala lack firearms, which should be requested from Spain without loss of time, specifying the number which is needed and including a memorandum of those located in the armory of Cartago in Costa Rica, its valley of Matina las Canas and Bagaces; in Nicaragua, the town of

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Rivas, Granada, Leon and Realejo; at Chontales, Chocoyos, Matagalpa, and Nueva Segovia; in the town of Tegucigalpa, Comayagua, in Olancho, Olanchito, Trujillo, El Yoro, *Omoa*, San Pedro Sula, and Gracias a Dios; in Chiquimula, Sacapa, and San Agustin of the Crown; the Province of San Salvador, etc."

Matias de Galves, Capitan General de Guatemala, en "Instruccion reservada que de orden de S. M. se hace para la defensa y gobierno del reino de Goathemala, etc.," suscrita el 18 de abril de *1784* ("Costa Rica y Costa de Mosquitos," por Peralta, pags. 239–240).

45. As belonging to the Province and Government of Honduras: The Bodegas River, situate on the edge of Golfo Dulce, Chamelucon or Chameleton (now Chamelecon), Gracias a Dios, Naco, San Pedro, and Omoa, although it is said that this is "of the Province of Yucatan in the Government and the Gulf of Honduras."

Antonio de Alcedo, "Diccionario Geografico-Historico," *1786*.

46. In the description of *the Province of Honduras*, he includes Omoa, Puerto Caballos, San Pedro Sula, Gracias a Dios, and Tencoa.

Juarros, pag. 38, Tomo I, obra citada.

47. In his account of the division of the State of Honduras he included in the latter Comayagua, Gracias, *Los Llanos*, Santa Barbara, and he *twice indicates that the ruins of Copan are located in said State.*

Humboldt, "over den tegenwoordigen toestand van den vrijen staat Centre-Amerika of Guatemala-Paris, *1826*.

48. Referring to the bishopric of Comayagua he states, "its territory, the diocese, includes all of what was formerly the intendecia and is now the State of Honduras * * * its boundaries. This State extending from east-west the length of the coast of the Sea of the North is bounded on the west by Chiquimula of the State of Guatemala and on the south by San Salvador and on the southwest and east by the State of Nicaragua and on the north by the Gulf of Honduras. * * * "

Antonio de Larrazabal, Guatemala, 30 de marzo de *1842*. "Memoria documentada, que al Illmo. Sr. Arzobispo Coadjutor de esta Santa Iglesia, Dr. Francisco Garcia Pelaez, presenta al cesar en el cargo de Vicario Capitular Gobernador de este Arzobispado."

49. Speaking of Gracias a Dios, he states that this city belongs to the Province of Honduras when the audiencia of the confines was established there, which statement is also made by Father Antonio de Remesal in chapter 13, liber IV, page 3 of his "Historia de la Provincia de San Vicente de Chiapa y Guatemala," 1619.

Justo de Zaragoza, "Notas e ilustraciones" a la obra de Fuentes y Guzman, page 232, del Tomo II, Madrid, *1883*.

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50. Quoting from Milla he states that about the middle of the seventeenth century the territorial division of Guatemala was composed of 32 Provinces including the mining district of Andres de Zaragosa (in Honduras). (Said place now belongs to the Department of Copan in the same Republic which was a part of the old district of Gracias.)

Urrutia, page 74, memoria citada, 1900.

The foregoing historical citations show that the places mentioned at the beginning of this section have belonged to Honduras since their establishment, both prior to the issuance of the royal rescript of 1563 and since then to this day.

Annexation to the Empire of Iturbide.

51. Decree of National Constitutional Assembly of August 21, 1823, abrogating all of the acts of the Imperial Government of Mexico, relative to the annexation to it of this ancient Kingdom of Guatemala.

The National Constitutional Assembly of the united Provinces of Central America in consequence of the decree of July 1 of this year, in which the annexation of this Province to the Mexican Empire has been declared null, has seen fit to decree as follows:

Article 1st. The decrees and orders which the Mexican Government communicates to these Provinces during the time of their annexation are from this moment without force and effect. * * *

Pineda de Mont, "Recopilacion de las Leyes de Guatemala," page 33, Tomo I, Guatemala, *1869*.

52. In November of the same year Filisola invaded Salvador, carrying out express instructions of Iturbide in order to have that Province recognize its annexation to Mexico and on the 11th of December, 1822, in the immediate vicinity of the capital of Salvador, an order was published by which the intendencias of the Kingdom of Guatemala, eastern Provinces as they were then called, were divided into three comandancias generales (military districts). This provision which was not made effective, had for its object to destroy all idea of independence by changing the ancient frontiers.

Urrutia, page 89, memoria citada.

EXHIBIT XIV.

(A) Convention between Great Britain and Guatemala, relative to the boundary of British Honduras. Signed at Guatemala, April 30, 1859. (Ratifications exchanged at Guatemala, September 12, 1859.)

ARTICLE I. It is agreed between Her Britannic Majesty and the Republic of Guatemala, that the boundary between the Republic and

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the British settlement and possessions in the Bay of Honduras, as they existed previous to and on the 1st day of January, 1850, and have continued to exist up to the present time, was and is as follows:

Beginning at the mouth of the River Sarstoon in the Bay of Honduras, and proceeding up the mid-channel thereof to Gracias a Dios Falls; then turning to the right and continuing by a line drawn direct from Gracias a Dios Falls to Garbutt's Falls on the River Belize, and from Garbutt's Falls due north until it strikes the Mexican frontier.

* * * * * * *

ART. VII. With the object of practically carrying out the views set forth in the preamble of the present convention, for improving and perpetuating the friendly relations which at present so happily exist between the two high contracting parties, they mutually agree conjointly to use their best efforts, by taking adequate means for establishing the easiest communication (either by means of a cart road, or employing the rivers, or both united, according to the opinion of the surveying engineers), between the fittest place on the Atlantic coast, near the settlement of Belize, and the capital of Guatemala; whereby the commerce of England on the one hand, and the material prosperity of the Republic on the other, cannot fail to be sensibly increased, at the same time that the limits of the two countries being now clearly defined, all further encroachments by either party on the territory of the other will be effectually checked and prevented for the future.

[L. S.] CHARLES LENNOX WYKE.
[L. S.] P. DE AYCINENA.

(From British State Papers, vol. 49, pages 7 et seq.)

(B) Convention between Great Britain and Spain. Signed at London the 14th of July, 1786. (Confirmed by the 1st additional article to the treaty of 5th July, 1814.)

I. His Britannic Majesty's subjects and the other colonists who have hitherto enjoyed the protection of England, shall evacuate the country of the Mosquitos, as well as the continent in general, and the islands adjacent, without exception, situated beyond the line hereinafter described, as what ought to be the frontier of the extent of territory granted by His Catholic Majesty to the English, for the uses specified in the 3d article of the present convention, and in addition to the country already granted to them in virtue of the stipulations agreed upon by the commissaries of the two Crowns, in 1783.

II. The Catholic King, to prove, on his side, to the King of Great Britain, the sincerity of his sentiments of friendship toward his

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said Majesty and the British nation, will grant to the English more extensive limits than those specified in the last treaty of peace; and the said limits of the lands added by the present convention shall for the future be understood in the manner following: The English line, beginning from the sea, shall take the center of the River Sibun or Jabon, and continue up to the source of said river; from thence it shall cross in a straight line the intermediate land, till it intersects the River Wallis; and by the center of the same river, the said line shall descend to the point where it will meet the line already settled and marked out by the commissaries of the two Crowns in 1783; which limits, following the continuation of the said line, shall be observed as formerly stipulated by the definitive treaty.

Done at London, this 14th day of July, 1786.

Signed CARMARTHEN. [L. S.]
LE CHEV. DEL CAMPO. [L. S.]

(From "A complete collection of the Treaties and Conventions, and reciprocal Regulations at present subsisting between Great Britain and Foreign Powers, and of the Laws, Decrees, and Orders in Council, concerning the same, etc. Compiled from authentic documents, by Lewis Hertslet, librarian, and keeper of the papers, Foreign Office, Vol. II, London, 1827," pages 245 et seq.)

(C) No. 139. The Earl of Malmesbury to Mr. Wyke.

[Extract.]

FOREIGN OFFICE, *February 16, 1859.*

I have to acquaint you that Her Majesty's Government are desirous of arranging with the Government of Guatemala the question of the limits between the British settlement of Belize and the Republic of Guatemala, and have determined to entrust this affair to your hands.

The general nature of the arrangement which Her Majesty's Government have to propose was, on the part of my predecessor the Earl of Clarendon, explained to M. de Francisco Martin, the Guatemalan minister at this court, in the summer of 1857, by Mr. Stevenson, the late superintendent of Belize; and as M. de Francisco Martin no doubt rendered to his Government an account of what then took place between him and Mr. Stevenson, you will probably find the Guatemalan Government prepared for what it will be your duty to propose. I inclose, for your information, an extract from a letter from Mr. Stevenson, containing a report of his interview with M. de Francisco Martin on this subject.

Her Majesty's Government are desirous that the limits of British Honduras should be established on the basis of the actual British

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occupations, as defined in the inclosed draft of convention. The proposed line of boundary would commence at the mouth of the river Sarstoon, in the Bay of Honduras, and proceed up the mid-channel of that river to Gracias a Dios Falls; it would then turn northward, and continue by a line drawn direct from Gracias a Dios Falls to Garbutt's Falls on the River Belize; and from Garbutt's Falls due north until it strikes the Mexican frontier.

It will be necessary that you should be exceedingly careful not to except (sic) any part of the proposed boundary as a cession from the Republic of Guatemala, or to accept, as it were, a title to any part of the British occupation from the Republic. It has been contended by the Government of the United States that the tract of territory between the Rivers Sibun and Sarstoon forms part of Central America, as having been included in the ancient Kingdom of Guatemala; and that as it is stipulated by the treaty between Great Britain and the United States of April 19, 1850, commonly called the Bulwer-Clayton treaty, that neither party shall occupy, fortify, colonize, or assume or exercise dominion over any part of Central America, Great Britain is, by that treaty, bound to withdraw from the district in question, without reference to her title to it, whether good or bad.

Her Majesty's Government can not acquiesce in this view of the case, because, at the time of the ratification of the Bulwer-Clayton treaty, they expressly declared to the Government of the United States that the British Government did not understand the engagements of that treaty to apply to Her Majesty's settlement at Honduras, or its dependencies; and Mr. Clayton, the American Secretary of State, stated, in reply, that the treaty was not intended by either negotiator to apply to the settlement of Honduras, the title to which was intended to be left just as it stood previously. But in order to show that in the adjustment of the boundary now contemplated Her Majesty's Government seek for nothing whatever beyond what was in their occupation at the time of the signature of the Bulwer-Clayton treaty, and is, therefore, covered by the declaration made on the exchange of the ratifications of that treaty, it is placed on record in the first paragraph of the draft convention that the boundary hereinafter defined is such as existed previously to and on the 1st of January, 1850; that is, previously to the conclusion of the Bulwer-Clayton treaty. It is, in short, absolutely necessary that the line of boundary to be established by the proposed convention should be therein described, not as involving any cession or new acquisition from the Republic of Guatemala, but as it is in fact, simply as the definition of a boundary long existing, but not hitherto ascertained.

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No. 209. Mr. Wyke to the Earl of Malmesbury. (Rec. June 16.)

[Extract.]

GUATEMALA, *April 30, 1859.*

It became evident that my negotiations must fail, unless I could hit upon a plan whereby the Government of Guatemala would find some inducement for agreeing to my terms.

Now, as the commerce of this State with Belize, and the Atlantic coast generally, has been falling off rapidly of late years, owing to the communication with the Pacific coast being so much easier from the existence of a good carriage road between this city and the port of San Jose, it struck me that the compensation they claimed might in some sort be afforded if we aided them in the construction of a practicable cart road to the port of Izabal, on the Atlantic coast, whereby the old commercial relations with Belize would be renewed and both contracting parties mutually benefited, without either appearing to receive a favour from the other.

No. 224. Lord Lyons to Lord J. Russel. (Received August 14.)

[Extract.]

WASHINGTON, *August 2, 1859.*

I had yesterday some conversation with Gen. Cass, respecting the British negotiations with the States of Central America.

The general introduced the subject by calling my attention to an article which appeared in the New York Herald of the 29th ultimo, respecting the treaty recently signed by Mr. Wyke with the Republic of Guatemala. He said that this treaty had given rise to violent attacks against Great Britain in the press; that she was accused of "retaining and extending her dominion in Central America in contempt alike of the Monroe Doctrine and the Clayton-Bulwer treaty." For his own part, the general said, he had perfect confidence in the good faith of England, and was thoroughly convinced that the Central American questions would all be ultimately settled in complete accordance with the understanding between our two Governments, but, certainly, things had so happened as to have an unfortunate effect upon the opinion of the American public. Mr. Wyke's treaty had, he was informed, been already ratified by Her Majesty. It was certainly unlucky that the first treaty ratified should be one securing and confirming British possessions, while the promised treaties for ceding rights and territories claimed by Great Britain had (so far as he knew) made little or no progress. He asked me whether it was certain that the Wyke treaty had been ratified, and whether I was in a position to communicate a copy of it to him officially.

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From British State Papers, vol. 50, pages 135, 136, 243, 259, and 260.)

EXHIBIT XV.

Licentiate D. Manuel de la Fuente Ayala solicits the payment of salary in arrears as chaplain of Castillo of Golfo Dulce.

ROYAL AUDIENCIA, *Dec. 2, '93.*

To the Oidor Fiscal (Solicitor General) thus ordered by *the president and judges of the Royal Audiencia*, Licentiate Antonio Naucia Bolaño, Francisco de Balenza Venagua, knight of the Order of Santiago, and Joseph Ducals, also of the same order, judges. In Guatemala on Dec. 2, 1693 years. Nicholas de Valenzuela.

M. P. S.

The Oidor Fiscal (Solicitor General) has seen this and the certificate of the keeper of the fort at Golfo *Dulce* from which appears the great attendance which he had at the administration of the holy sacraments of Father Manuel de la Fuente Ayala, *curate of the benefice of the town of Amatique* to the Indians of said town who are under his charge and also to those which he mentions having taken out of the mountain and added to said town, for which reason and because he has served Your Excellency, he is worthy of the honor and grace of receiving when the opportunity should arise any vacancy in the benefices of the *bishopric of Honduras* for which Your Excellency may be pleased to issue the royal order which he requests and prays for, in order that the *reverend bishop* of said bishopric may bear him in mind whenever such vacancies may arise and appoint him according to his merits and service. Guatemala, *Dec. 8, 1693.*

Order.

The foregoing was ordered by the *president and judges of said Royal Audiencia*, Antonio Navia Volano, Franco de Valenzuela Venegas, knight of the Order of Santiago, Joseph de Cals, of the same order, and Manuel de Valtodano, judges, in Guatemala on *Dec. 9, 1693.* Pedro Pereira.

M. P. S.

Licentiate Manuel de la Fuente, *presbyter and curate of the benefice of the royal ecclesiastical patronage of St. Thomas de Castilla and of the district of San Pedro Amatique, chaplain of the infantry*

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of the Castillo de San Felipe of Golfo Dulce. I state that I have served Your Majesty in the reduction and pacification of the Choles Indians of this *mountain of the gulf*, increasing the district of said town of *Amatique* with many families, which I added last year ninety, and as a result there are at present many Indians in the service of this *fortress*, as appears from the annexed certificate which I enclose in order that Your Excellency may examine it, and inasmuch as I have been giving spiritual aid to such Indians without receiving any compensation except the first year when I received $200 which Your Excellency then saw fit to grant me for that purpose, and as I have rendered them such spiritual aid for three years without receiving any compensation whatever, and I am always ready to serve Your Excellency, as I am now receiving the salary which was assigned to me, I request that order be issued to the *prelates of the diocese of the bishopric of Comayagua* so that whenever vacancies shall occur in the benefices they shall take into account my services as *curate in this port and fortress* where the hardships of the religious ministry are much greater *than elsewhere in the bishopric*, as well as the service which I have rendered Your Excellency in gathering said Choles Indians, all of which appears in the records which I have presented to Your Excellency and are now in the office of Your Excellency's secretary of the chamber; because it is just I pray Your Excellency that you be pleased to issue such order as I request and Your Excellency will thereby be gracious, and may God keep Your Excellency many years in the discharge of the highest offices of State and Kingdom which he might desire. *Castillo de San Phe, November 18, 1693.* Signed, Manuel de la Fuente Ayala.

Let the order be issued as *suggested by the Solicitor General. Royal Audiencia, Dec. 22, 1693.*

EXHIBIT XVI.

1. "Juarros (D. Domingo). A secular priest, very painstaking in his work, and filled with zeal for the glories of his country, Guatemala, where he was born August 3, 1752. He has undertaken a complete civil, literary, and ecclesiastical history of that capital and kingdom, etc."

José Mariano Beristain de Souza, "Biblioteca Hispano-Americana Septentrional." Mexico, *1816.*

2. "It is necessary to state the great public utility which will result from a reading of his book, than to mention the clearness, simplicity, *truthfulness*, and conciseness with which many facts are set forth in it (speaking of Juarros book), for which search elsewhere would be fruitless. * * * Those who will read the pre-

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liminary issues will find therein compiled the most extraordinary items relating to the whole of this Kingdom, its area, Provinces and towns * * * longitudes and latitudes of the principal places *with an exact geographical description of their boundaries;* * * * In a word these preliminary issues and notes make up *an indispensable book which should be in the hands of all classes of people*," etc.

Fr. Jose Antonio Liendo de Goicoechea, "Compendio de la Historia de la Ciudad de Guatemala," of Juarros, proceedings for the publication of said work. *1807.*

3. In his preface to this work the author states that among the reference books which he consulted in the preparation of his book must be mentioned "the works written by Messrs. Juarros and Garcia Pelaez," etc.

Tomas Ayon, "Historia de Nicaragua." *1882.*

4. Among the diplomatic precedents that show that Father Juarros' book has been introduced in evidence in boundary disputes of Guatemala is the citation of said authority made by the Minister of Foreign Affairs of said Republic, Mr. E. Martinez Sobral, in a protest dated July 11, 1888, which he addressed to the Mexican charge d'affaires in Guatemala.

Urrutia, page 252, de su memoria citada.

5. Another diplomatic precedent from the annals of Guatemala is contained in the following paragraph: "Besides it is easy to prove the dominion and possession since time immemorial in Guatemala of all of the territory comprised within said ancient boundary. * * * History, with its characteristic impartiality and justice, records said rights beyond doubt. * * * *Father Domingo Juarros relates this part of our history, the most extensively and with the greatest amount of data* in chapter 4, treatise 5, vol. 2 of his Historical Compendium of Guatemala, wherein he states how the conquerors effected the reduction of the Indians of Chol, Lacandon, and Mopan."

Jorge Muñoz, Minister of Foreign Affairs of Guatemala, to the Mexican charge d'affaires in Guatemala on Jan. 1, *1895.* ("Official correspondence arising out of the invasion by Guatemala of Mexican territory with the precedents and the final settlement thereof," Mexico, 1895.)

6. "*Dr. Domingo Juarros and his compendium of the History of the City of Guatemala.*" Domingo Juarros is the best informed of the Guatemala historians abroad. Bancroft cites him and praises him at every page of his work, and although he does not fail to acknowledge his defects, he holds him to be a competent authority on matters of our history. He states that Juarros is one of the most impartial writers of Spanish history, even in ecclesiastical matters,

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of which he was a minister. * * * He was a wise and exalted priest and came of a family well known in the country. * * *"

Ramon A. Salazar, "Historia del Desenvolvimiento Intelectual de Guatemala," pag. 151, Tomo I. Guatemala, 1897.

7. The authority of Father Juarros is accepted by the following writers: Humboldt, in "Over den Tegenwoordigen toestand van den vrijen staat Centro-Amerika of Guatemala," Paris, 1826; *John L. Stephens*, "Incidents of Travels in Central America, Chiapas, and Yucatan," New York, 1846; The Costa Ricans, *Leon Fernandez* and *Manuel Maria de Peralta;* Dr. *Santiago I. Barberena, a Guatemalan*, who wrote "Historia Antigua y de la Conquista del Salvador;" and the *Guatemalans, Jose Milla and Agustin Gomez Carillo, historians under official commissions from their Government.*

EXHIBIT XVII (*a*).

Instructions by which the commissioner shall be bound in the demarcation of the boundaries between the States of Guatemala and Honduras, given in the year 1844.

1. The State of Honduras has for its territory the same which the intendencia had, and the latter that which the eccelsiastical diocese of said bishopric had, for the intendencias were created in precise conformity with the area of the bishoprics. It is so established by the "Ordenanza de Intendentes de Nueva España" (Ordinances of the Intendentes of New Spain), of December 4, 1786, in which said offices were created. In Honduras there were two departments, one Comayagua, which was a political and military government (gobierno), and Tegucigalpa, which was an alcaldia mayor, both independent of each other, and as they were comprised in the same bishopric another was formed from the two. Soconusco was a political government and military government, and Costa Rica was a political government, and Chiapas was an alcaldia mayor, independent of each other, and as they were comprised in the same diocese another was formed from the two. San Salvador was a corregimiento, and although included in this archbishopric, of itself constituted alone another intendencia, an exception having been made because of its peculiarities as well as was done with Veracruz, which was formed with a part of the bishopric of Puebla and Oaxaca. In Guatemala an intendencia was not created as it was entitled to in accordance with the ordenanza, because an experiment had been made in Mexico which caused conflict of jurisdiction with the viceroy. But subsequently there was established in this city a provincial and not a military one, in accordance with the royal order of June 25, 1805, which was printed and circulated on March 1 following. It must therefore be taken as a basis that the territory of the State of Hon-

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duras is that of its bishopric. In the Federal constitution, in article 7, the territory of each State is not specified. It only provided that a special law would fix the boundaries, which up to the present time has not been done. But in the bases which were published shortly before, on December 17, 1823, the number of towns and places of each one was set forth, as also the population, taken evidently from the work of Father Juarros, and though it increased his figures considerably, and from these bases it is seen that *each State was considered as having the territory of its intendencia.*

2. The boundaries of the bishopric of Honduras, and those of any other, are well known, as every town, valley, hamlet, estate and farm knows where it must go for the administration of the sacraments, for its marriages, baptisms, interments, attendance at church, tithes, first fruits and other religious obligations, and knowing this one knows the political boundaries, which are the same as the ecclesiastical. The only ones respecting which there might be a doubt are the places in between and unpopulated, which might lie between two bishoprics, but Law 3, T. 7, L. 1 of the Indies, decides the question. It provides that dioceses shall have a territory with a radius of 15 leagues, and that if any should lie between them it should be divided in half.

This rule has always been followed since the earliest times between the various jurisdictions, and also between the cities and villages in order to ascertain the "limits" of each one. Gregorio Lopez, in his commentary on Law 9, T. 33, part 7, and in section 10, T. 15, P. 6, and section 2, T. 1, P. 1, explains it very minutely, showing how to proceed about it if the occasion should arise, which never having occurred between us is not here extracted.

3. This rule of dividing in the middle uncultivated and unpopulated lands has its exceptions, as have all general rules. One exception is that if the residents are agreed in recognizing a specified boundary, that shall be respected as the true one and not a new one, because the ancient one is always the best, because it is established by time, in which case, although such boundary should not fall in the exact center of the territory to be divided, it is nevertheless to be preferred. The agreement of the residents, it is understood, is that of past generations, tacit or express, or by free acts occurring once or repeated, proved by science, by ancient books, writings which have not been litigated, and even by poets. The Greeks and their neighbors used to prove their boundaries by Homer. Reputation (fama) is good proof, as decided in ch. 13 of the Decretales, Title "De probatio," explained by its commentator Manuel Gonzalez. In this matter *reasoning* is admitted in evidence, which thing is not admissible in other judicial suits. Another exception is where *a permanent river* lies in between, or a mountain

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range, hills or ravines, which are the best natural boundaries, which none can question, change, or remove, and which seem to have been fixed by Nature, and when there are such even though they are not in the very middle, they should be selected even though one of the parties should lose some territory, because it is justly permitted in this case to the surveyors and experts to give and take from one or the other of the parties.

4. The commissioner shall bear in mind and have at hand *the work of Father Juarros*, in two volumes, wherein is listed the villages, valleys, estates, rivers, and other peculiarities of the Department of Chiquimula, which is the one bordering on Honduras. There are two sure data; one is that *the valley of Copan divides Chiquimula and Honduras*, and the other that *the Motagua is also a dividing line*. Juarros should be taken as text because he wrote from the end of the past century and the (official) approvals are dated 1803, when no one could suspect the disturbances which subsequently have affected all ideas, to which should be added the great regard for truth and exactness with which he writes, and the scrupulous investigation which he made of every point in his book, especially in matters relating to curacies and parishes because he had at hand the records of visits of the Archbishop Larraz in the year 1768, and the maps of Mr. Monrroy of 1784, and also the books of the secular and ecclesiastical corporations and the sedularios of both, together with many other official documents. The pertinent portion of this work of Father Juarros is the chapter on Chiquimula, Vol. I, p. 34, Honduras, p. 38, Comayagua, p. 40, ecclesiastical geography, p. 92, table of curacies, p. 98, alphabetical index of places, p. 105, in order to find the villages on the border between Chiquimula and Honduras. In volume 2, the chapter on the changes of Provinces, p. 37, Chiquimula, pp. 156 to 167 and 171; and the commission shall also have present the "Atlas Guatemalteco," in 8 sections, made by Midguel Rivera Maestre in 1832, and especially the eighth section, which is the one on Chiquimula, and which is pertinent hereto; and he shall also have present the English geographical map of Mr. Arrowsmith, published in June, 1826, illustrated in colors, wherein the State of Honduras is pictured in yellow, which has given rise to many mistakes notwithstanding the fact that as to the geographical position of the places it appears to be correct; he shall also have present the French map of Brue, dedicated to the Academy of Sciences in 1832, which appears exact for its class, and in case that these maps should not be easily obtainable, they can be replaced by others, among them the one made by order of the Belgian company of St. Thomas, which is contained in the atlas published by Mr. De Puydt, this one being very pertinent because it shows the direction of the Motagua, which the others do not contain.

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5. The operation of surveying the boundaries shall be commenced by the commissioner of Guatemala first having agreed with the commissioner of Honduras on the point where *the three territories of the three States of Guatemala, Honduras and Salvador meet, which appears to be the town of Atescatempo*, which in the chart of Miguel Rivera is called "Tescatempa"; or in some other near-by point. There oral information will be taken of the most reputable residents that should be found, as to which is the boundary between the two States, known and reputed as such, and they shall be asked where did they receive the administration of the sacraments and of justice, because these two points must establish the rule, and in case they vary they shall state cases and facts. If they should agree, and also the two commissioners, that boundary will be considered as fixed. This shall be understood in the case that residents of places on both sides of the frontier shall have been examined, or if that should not be possible, when the commissioners shall have arrived at a decision as to what is the truth. If the boundary reputed to be such should be a range of mountains, hills or hillock of a hill or highland, height or some large prominent river, or a deep stream or ravine, they shall be selected preferably even though they do not run in the very center. But if it should be level land in which there are none of these monuments, there shall be taken the middle distance between the two border towns, one from each State, for which it shall not be necessary to make an actual measurement with a chain, which would be very laborious, but an estimated one according to the time it would take to walk along the road in one hour, a legal league being computed per hour at a regular walk, neither too fast nor too slow, and through a medium road, neither too straight nor too curved. It is commonly estimated that in an hour one can walk a league (Law 7, T. 39, Book 9, Laws of the Indies), which is 20,000 feet, that being the legal league of 20 to the degree or 4 miles to the league. But we use the three-mile league, or 5,000 varas (yards) of 26⅔ to the degree, which is the one used since the Laws of Partida (3, T. 16, p. 2), by which we ought to estimate one hour as equivalent to 1⅓ leagues. On finding the boundary, its geographical position as to latitude and longitude shall be noted, and if not made by astronomical observations it shall be made by any other chart or map such as that of Miguel Rivera, or the French Brue, or the English or any other that may be at hand because all of them show the same degrees. That by Rivera has this special point, and that is, that it gives to the degree 25 leagues, and to each mile of the latter 5,000 varas, from which it results that the vara which he uses is greater than the Castillian Burgalesa yard which we use, and exceeds it by two inches and some lines; but this does not affect the substance of the matter which we are treating.

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The important thing is to fix and set out well and most precisely the first monument, because upon it will depend in great part the other ones and nearly all of the operations to such an extent that with the first line at times one can ascertain the series or other lines. One line determines the others, says Gregorio Lopez (Gl. 8, L. 10, Tit. 15, p. 6). So that the first point having been fixed at one end and knowing as it is known that the other end is the mouth of the Motagua, a straight line could be drawn which would form the entire boundary in case the intervening points should not be known. The investigation having been made as previously stated, a record of it shall be made by writing it in a book which shall be carried for that purpose, wherein there shall be noted from day to day the progress that may be made in the manner of a legal proceeding, as was done by the ecclesiastical visitors as bishops, and intendentes magistrates in the visits which they used to make; and all the more should the commissioners do so now, because this operation is to decide many doubts which in the future, one or two hundred or more years from now, when the present and succeeding generation shall have passed away, will rise upon the ruins of time, which swallows up everything. Honduras, perhaps, in days to come, will grow so much that it will no longer fit within its boundaries, and Guatemala may want to increase its present boundaries.

6. In the above manner you shall continue successively along the frontier line between State and State, seeking on one side and the other either a village or a hamlet *or an estate marking the division.* A sketch or draft of a plan shall be prepared wherein there shall be noted daily the observations in order to make the final copy subsequently. You will arrive at the *valley of Copan*, where Calel had his capital at the time of the conquest, and where in the Jovian period, immediately following the deluge or grand cataclysm, there was a patriarchal city, whose ruins still exist. This valley is the divisor between Guatemala and Honduras, according to Father Juarros, vol. 2, p. 153, and has belonged at times to the former and at others to the latter, just as has happened with other towns and Provinces. Guascoran belonged to Guatemala until the beginning of the last century, in which, because of its distance, it was taken into his diocese by Bishop Lopez Portillo. Choluteca did likewise, and for the same reason at the request of the bishop of Guatemala, Juan de Santo Matia was added to Comayagua. Soconusco belonged to this bishopric; afterwards it belonged to that of Verapaz. Thereafter, it again belonged to the former, and lately it belongs to the bishopric of Chiapaz. This is stated in order to show that it is not good argument to allege what was variously done in remote times, but to fix a middle period in which there was conformity as in our

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case, the creation of the Intendencias in 1790. Along Copan there passes a cordillera, which commences to the south of Mita, and which is commonly called Merendon,[1] and intersects the Motagua, and extends to the east of the port of *St. Thomas*, to enter Cape *Three Points* called Punta de *Castilla* or *Manavique*. The dividing line between Honduras and Chiquimula strikes this mountain before it (the mountain) intersects the Montagua, the line passing through the north of the village or hamlet of *Chucuyales*, and it is a point which should be examined and marked out very scrupulously. This mountain, which the English and French maps call "*The Copan*," and which is not marked continuously in that of Rivera, forms a landmark toward Sensenti, but not in the rest of its course, for which reason it is not necessary that the commissioners shall fix precisely the intervening section.

7. From the point at Chucuyales, following the mountain to the Motagua, it forms a boundary, *and also the river to its mouth in the Bay of Omoa or Honduras.* This boundary must be fixed as certain because it is so stated by Father Juarros at vol. 1, p. 35, and as such has been recognized in the past by usage and custom. Law 1, tit. 1, bk. 5 of the Indies, provides that with respect to boundaries, that established by use and custom shall be abided by and accepted. It also orders that the one decided upon previously by royal ordinances and superior orders shall be accepted and abided by without doubt or objection. A river is one of the most important means, therefore, even though it should not be proven that it really is. It should be presumed. It is so stated in the Curia Filipica Mar Art. River, No. 18. In case of doubt the ends of the jurisdictions is understood to be divided by the river, as stated by Gregorio Lopez, because it is believed that the river was placed by nature as an eternal boundary of the sections.

8. The same curia states at No. 20 that if the river changes its location from that through which it formerly passed and flowed and takes a new course elsewhere, this becomes public, and the owners of the soil lose the same, and the former ceases to be public, and is acquired by the owners of the land which it adjoins, as is stated in law, because a river has the powers of a judge, who gives and takes

[1] The name "Merendon" is given to the Sierra Madre or Cordillera of the Andes, which starting from Alaska passes through the United States, Mexico, and Guatemala, a peak of which is Cerro Obscuro; thence from Honduras it passes between Octopeque a peak of which is Cerro Obscuro; thence to passing between Octopeque and Sensenti; thence toward Nicaragua along the frontier of Salvador, where it takes said name approximately at the point where a spur starts, which is variously called Gallinero, Grita, or Espiritu Santo, which spur heads toward the Atlantic and terminates near Omoa. The mountain to which Larreinaga and Marure refer is called Copan Mountain and it starts from the Sierra Madre in the vicinity of Cerro Obscuro and proceeds toward the Montagua by which it is intersected, and said mounutain then, as stated by them, continues to Santo Tomas. This will be more readily grasped upon an examination of the map which is being prepared by the Honduran engineers.

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away dominion. Such case has occurred with the Motagua, which has changed its course some cords or leagues before reaching its mouth, leaving an islet at the edge of the sea, as is shown by the map published by the Belgian company, which depicts two streams with the name of *Mataguilla* and *Motagua*. From oral information we know that the first was the former river bed which became obstructed with the sand and mud of the freshets; and the second, which is farther east, toward the State of Honduras, is the new one which has opened; if it were thus the soil which has remained in the islet has accrued to Guatemala and has been lost by Honduras, according to the principles and precedents of public law found in the works and established by Heineccius, Grotius, and other publicists, which are not cited because there is no dispute. Measuring this islet, which has become dry, with the scale stated in the same map, it appears to be from north to south 2½ leagues of 5,000 meters each, which make exactly 3 leagues of ours of 5,000 yards, and in width it has 1⅛ French leagues, which make exactly 2 of our leagues. The proportion between the meter and the Spanish yard is that of five to six, or as one to one and two-tenths (1:1.2). It will be noted here in passing that Father Juarros in many places in his book uses the French measurement of toessas without stating its corresponding equivalent in the measure which we use, which is the vara (Spanish yard), which can not but cause confusion, and in order to remove it it should be known that a toesa has six feet French king, which is equivalent to seven feet Spanish toledanas, of which three makes a Spanish yard. This scale of equivalents is found by Jorge Juan, and afterwards examined very scrupulously by P. Clavigero at the beginning of his first volume in "Ancient History of Mexico."

9. The flow of the Motagua, now newly formed, has been added to a smaller river which existed there, and lent to it its river bed. You should ascertain what river this is. In the chart of Rivera-Maestre it is called *Rio Tinto*, and is on the dividing line which is there shown between Guatemala and Honduras. In the maps which we have had, and still before us, there is *no other River Tinto* than the large and abundant river which empties to the east of Truxillo, and rises in the mountains of Teguzgalpa, a country inhabited by barbarians; and in the work of Father Juarroz no mention is made either of any other *Tinto River* than the large one above Truxillo, nor in the history of Herrera, nor in a report which is printed, made to the King by Geronimo de la Vega on January 15, 1759, regarding the building and construction of the castle at Omoa, where information is given regarding everything in its vicinity, its ports, inlet, anchorage, coves and rivers, and the former is not mentioned. Neither is it mentioned in a manuscript Memorial written last cen-

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tury on May 31, 1744, by Engineer Luis Dies Navarro. In the English map which has been cited there is depicted in the place of this second Tinto River one with the name of Cuyumel or Cuyamel, which has now become confused with the right arm of the Motagua; and in the French map there is designated with the name *Port of the Mangle*, a small river which might be the former but which it is not because *Port of the Mangle* is the name which that of Omoa formerly bore because of a sandbank, which was to the north of it, where there were many mangles, as mentioned by Geronimo de la Vega in his report to the King; and in the French map because of its narrowness it seems as though the lettering of Port of Mangle starts from the river, which it does not, but it only indicates Omoa. The *Belgian* map, which properly speaking is only a view of the coast, this river is designated by the name *Tinto River*, but it is copied from that of Miguel Rivera, for which reason it is not a separate witness. It will be necessary, therefore, for the commissioner to become fully informed as to what there is in this, beginning all investigation from the towns or places above mentioned, such as Chiquimula, Gualan or others, because near the coast there are generally no residents.

10. The English map of Mr. Arrowsmith pictures the State of Honduras colored yellow, with which color is also marked all of the Cape of Three Points, or Manavique, and this might lead one to believe that it belongs to that State, as also the part on the left bank of the Motagua. In order to correct this impression, which is not exact, it is necessary to know that the word "Honduras" is applied to various things, for instance, one states Gulf of Honduras, Point of Honduras, Coast of Honduras, Province of Honduras, and State of Honduras, all of which are different things. The name was coined by the first Spaniards who came with Christopher Columbus in the year 1502 to discover the coast of Truxillo, and wishing to tie up on shore, with the lead in hand they could not touch bottom but only depth (Honduras). Finally, when they touched bottom they exclaimed: Thank God, we have cleared these depths (Honduras); from which arose the name of Cape Honduras, which is close to Truxillo. Afterwards, Vicente Pinzon and Juan Diez de Solis, in 1506 doubled this cape in order to enter the gulf, and got so far as the mouth of the river, and they gave it the name of Gulf of Honduras. The whole coast, from Truxillo to Cape Gracias, others gave the name "The Coast of Honduras," although Columbus had given it the name of Oreja (ear), because he saw some of the Indians with large and pierced ears hanging, and the place where is Truxillo he had named "Casinas," a Genoese word meaning a fruit like the common chamomile. To the province back of the coast

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they gave the name of Hibueras which is the name given in Santo Domingo to the tree which we call Xicaro or Tecomate (crecencia cujete). But later on they forgot this name and substituted that of Honduras. From this it will be seen that this word is very vague and misleading, and to take it in the sense which some use it it is necessary to bear in mind the subject matter and the time when it was used. In a sea chart which shows a gulf with that name, it means only that that gulf bore that name, but that gives no dominion thereof to any Government or State. Otherwise, it would follow that the coast of Bacalar and of Belize belonged to the State of Honduras because it is in the gulf bearing that name. So many are the changes which things have had from the beginning of their establishment that even ecclesiastical ones, which by their nature are the most stable, have had many and great changes. In the beginning the church of Mexico and of Guatemala were suffragans of that at Seville; the second had for its diocese all of the territory which is now in the bishopric of Chiapas, Honduras, and Nicaragua. Afterwards, when the archbishopric of Mexico was created, it received as suffragans (the bishoprics) of Chiapas and Guatemala; and that of Honduras was placed under Santo Domingo, and that of Nicaragua under Lima. They remained thus until 1743, when the archbishopric was established. About a century ago, by the name of New Spain, Guatemala was understood, and for this reason it caused many conflicts of jurisdiction with that viceroy. Therefore it is necessary to fix a time from which to start. In regard to the territory of the States, this should be fixed as of the date of the creation of the intendencias in 1790, as that is the last form given to these provinces by the Spanish Government.

11. Upon completing the survey of the dividing line of the Motagua up to its mouth at the sea the total operation will be concluded and the informative record which shall have been made from day to day will be terminated with all possible exactness and detail, for it is to serve during the coming ages and for other operations of a more perfect nature, for which reason it is necessary to know the distances and heights, and as these can not be made by barometric or astronomical measurements, at least they can be estimated, which is where all beginnings are made.[1] * * *.

12. Of the informative record a literal copy shall be made signed by the two commissioners for delivery to one of them; the original remaining in the possession of the other, or the plan might be adopted of writing simultaneously in two books the record of the proceedings taken from day to day and thus abbreviate the work.

[1] We have omitted the references to the cartographical rules. (Notes of the Honduras Special Mission.)

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A plan of the whole dividing line shall be made from the beginning to the end, well marked out, with the bearings and geographical position and the places which lie on both sides of it, both in Honduras and Guatemala, and of this also two copies shall be made, one for each State. This method is that advised by Abbot Rozier in his Directionary of Agriculture * * *.

13. The commissioner shall notify the Government as frequently as possible of the progress made and the obstacles met and of the doubts that may arise, and shall use his best judgment and prudence in resolving those concerning which he may arrive at a certain decision, and for that purpose orders shall be given to the corregidor of Chiquimula and other authorities of that department to the end that they may aid him in all things that he may require.

14. This and the following articles treat of another commission, separate and distinct from that of boundaries, which only interest the internal policy of the Government of Guatemala, * * *.

With the above I believe I have fulfilled as far as possible the beneficient intentions of the supreme Government, which will modify or add hereto whatever it may deem necessary.

MIGUEL LARREYNAGA.
ALEJANDRO MARURE.

GUATEMALA, *June 14, 1844.*

EXHIBIT XVII (*b*).

The Motagua River.

1. The citation from Juarros which Larreinaga and Marure give in their instructions, copy of which has heretofore been included, reads as follows: "The most famous rivers of this region (Province of Chiquimula) are Golfo Dulce and *Rio Grande*, noted for a certain fish found there, bobo, the finest fish known in the Kingdom and which is to be found nowhere else than in this river and in that of the city of Comayagua; this river rises in the Province of Chimaltenango and in its prolonged course receives many others, later taking the name of Motagua; it is the dividing line between this Province and that of Honduras; it empties into the ocean eight leagues to the east of the mouth of the Golfo River.

Juarros, page 35, Vol. I, hereinbefore cited.

2. "The Motagua River is *in the coast of Honduras*, and runs through it from west to east for a distance of eight leagues from the mouth of the gulf, mounting Point Malabique it is very copious and descends from the mountains of Zacapa, Chiquimula, and Verapaz, and large canoes can ascend it to Zacapa. * * * Between the mouth of the gulf and this river is Malabique and two small

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ports called Gracioso and Santo Tomas de Castilla, and the Tichel River which is small."

Luis Diez de Navarro, "Description of all the coast of the Sea of the North and part of that of the South of the Captaincy General in this Kingdom of Guatemala," 1758. (General Archives of the Indies, 100–3–11.)

3. Macurises, a river of the Province and Government of Yucatan. It empties into the sea in the Gulf of Honduras at that of Triunfo de la Cruz; it is large and navigable for medium-sized vessels.

(Although he states that this river belongs to the Province of Yucatan, it is clearly seen that it is the same error which he committed in speaking of Omoa, respecting which he added that it is in the Government and Gulf of Honduras; besides, in speaking of Golfete and the River Dulce he states that they belong to the Province and Government of Honduras and therefore he can not have been of opinion that the Macurises (Motagua) should belong to Yucatan.)

Antonio de Alcedo, "Diccionario Geografico-Historico," Madrid, *1786*.

4. "About the year 1603 pilot Francisco Navarro found *near the Motagua River* some Indians of the Toquegua nation who were gentle and docile and who readily submitted to the control of the Spaniards; and His Grace, Father Gaspar de Andrada, Bishop of Comayagua, sent priests to teach them the catechism * * * these Indians were transferred to the village of Amatique, where although many died, many families descended from them remained for a long time."

(This does not state on which side of the Motagua Navarro found the Toqueguas Indians, but even though it was on the eastern side it confirms the statement that it then belonged to the bishopric of Honduras).

Juarros, page 163, Vol. II, work above cited.

5. The rivers which are to be found between the two Provinces of Honduras and Costa Rica which empty into the Sea of the North are the Motagua, Chamelecon, Ulua, Lean, Aguan, Tinto, Platanos, Bayahonda, Indiano * * * and Matina * * *

Pedro de Rivera in "Facts regarding the Mosquitos and ways of exterminating them," by Captain General of Guatemala of the same name, 1742. (Pages 119 and 122 of "Costa Rica and the Mosquito Coast," by Manuel M. de Peralta.)

6. "3. The Motagua (Rio Grande) is one of the largest rivers of the State of Guatemala and rises in Quezaltenango between the town of that name and Solola; it serves as a boundary for the department

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of Verapaz, the district of Santo Tomas, and empties into the Atlantic between that district and the State of Honduras."

"Memoire contenant un aperçu statistique de l'Etat de Guatemala, ainsi que des renseignements precis sur son commerce, son industrie, son sol, sa temperature, son climat, et tout ce qui est relatif a cet etat, etc." Bruselas, *1840*.

7. "From Abroad." Republic of Honduras. An agreement has been made with a company entitled "Compañia de Guatemala" (Guatemala Company) for the importation and exportation of articles of commerce along the *Motagua* River, which washes the important departments of Santa Barbara and Gracias of that Republic."

"La Semana," page 3, No. 10, vol. 1, March 5, 1865; a semi-official publication of the Governmenf of Guatemala.

8. Under the word "*Cazabastlan*" he states that the Rio Grande of Honduras *in said Province* in emptying into the sea precipitates itself between Punta de Higueras and Cape Three Points near *Golfo Dulce*, under the name of *Omao* River, Cazabastlan or Cazahuaastlan. * * * Under the word "*Omoa*" he states this is the name taken by the Piscaya River when in conjunction with others it empties into the Atlantic Ocean at Port Omoa and Gulf of Honduras in the Province of the same name, and district of Comayagua of the ancient Kingdom of Guatemala. It was also called Rio Grande. * * * Speaking of Point Higueras he states that it extends into the ocean between the eastern shore of Golfo Dulce and the western shore of the mouth of the Omoa River, where it empties into the sea in the Province of *Honduras* of the ancient Kingdom of Guatemala. * * * Under "Rio Grande" he states that it is formed by Agua Caliente, Los Sauces, Los Platanos, Piscaya, and all of the rivers of the valley of Sacatepequez and that it empties into the sea between the Point Higueras and Cape Three Points under the name of Omoa River near Golfo Dulce. * * * And under the words (Cape) "Three Points" he confirms the statement that it is to the north of the mouth of Omoa River.

Justo Zaragoza, "Adiciones y Aclaraciones" a la obra de Fuentes y Guzman. Pags. 218, 262, 274, 279, 302. Madrid, 1883.

9. *Chapulco, a place on the Motagua.* Under letter "A" of the replica of Honduras there is cited the repartimiento (a special allotment of lands) made by Pedro de Alvarado (governor of the Province) in *1536;* and among the villages of Honduras appears Chapulco. Chapulco also figures among the villages of Honduras (letter B of said replica) in the list thereof made in *1582* by Alonso Contreras Guevara, governor and chief justice of the Province of Honduras.

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10. All of the maps prior to independence place the Motagua River within the Province of Honduras with a greater or lesser extent of territory on the other side as will be seen upon the presentation of said maps.

EXHIBIT XVIII.

De Lisle Map, 1720.

On the annexed photographic copy of this map we have added the following lines to illustrate our interpretation of the royal rescript of May 17, 1564, viz:

The *red line* [1] to denote the boundary line of Honduras with Guatemala and Nicaragua.

The *green line* to denote the perpendicular line from Gulf of Fonseca to the Province of Honduras, which in the map appears as the dividing line between Guatemala and Nicaragua.

The ENGINEERS OF THE HONDURAS SPECIAL MISSION.

WASHINGTON, D. C., *August 27, 1918.*

EXHIBIT XIX.

The Captain General of the Kingdom of Guatemala, Matias de Galvez, acknowledges that San Antonio del Descanso and the Mountain of Copan in the direction of Camotan belonged to Honduras in 1782.

Matias de Galvez, of His Majesty's Council, field marshal of the royal armies, Governor and Captain General of the Provinces of Guatemala, president of their royal audiencia, etc. Whereas there has been completed the desired road through the Mountain of Copan (which could not be obtained even with over one thousand workmen in the term of my predecessor Vasquez Prego) to facilitate prompt correspondence from the city of Guatemala to the port of Omoa, due to the efficiency, activity, and perseverance of Domingo de Claros, who overcame all of the difficulties and the dangers, losing himself in an almost impenetrable region, which road runs in the best and most advantageous direction (as I have noted in passing over it), thereby saving five marches along the ancient road, and built at the small expense of $300, and without receiving any compensation whatsoever in the execution of this commission, and it only being necessary to clear a forest and widen it, to secure which some steps are necessary, which work should be commenced in the coming month of February, and it being also indispensable for the better convenience of mail and the transportation of commercial articles that people may be settled in said mountain and

[1] EDITORIAL NOTE.—In view of the fact that coloring is not supplied in the accompanying map, the red line is shown on it by a line of crosses while the green line is represented by heavy dots.

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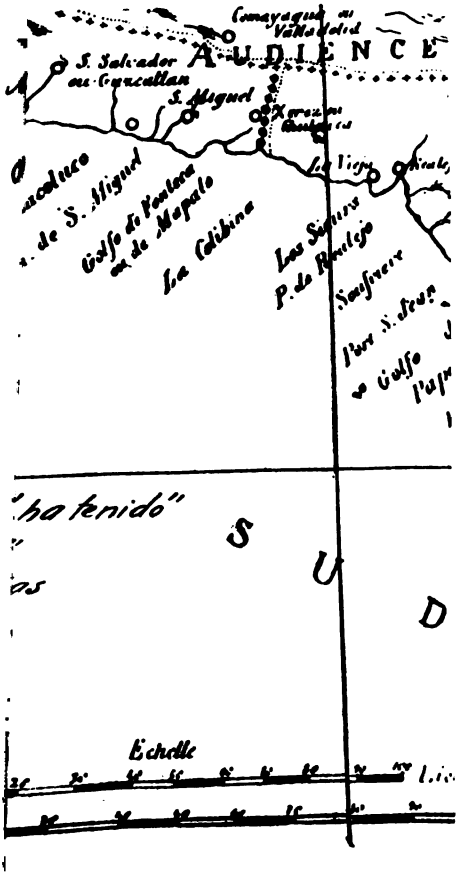

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particularly at its entrances and exits and for obtaining which and by reason of the satisfaction which I feel in the work of the said Domingo de Claros, I appoint him in His Majesty's name (who I will inform of this provision) as director for the termination and perfection of said road and I give him all of my powers in order that he may create a settlement in the ranches of *El Descanso* and increase the almost extinguished village of Jigua, appointing him governor thereof, and he shall call and collect in these towns all of the people of either sex whom he may consider useful and distribute land among them for the plantation of corn and rice, and lots wherein they shall build their houses, notifying the Indians who may settle in the vicinity of said places that they will always be permitted to live there free of the payment of any royal taxes, and other pensions, of which privileges the ladinos of other classes shall likewise enjoy; so that all may be prompt to render aid to the royal service, particularly to the mails and posts in their respective cases which shall be paid for the present at one real per league from the place of Jigua to Camotan if these should be provisions, and all supplies at their just price, and in the same manner shall individuals pay, excepting that veterans because of their special privileges shall pay only half a dime per league per caballerias, which provisions this governor shall be careful to preserve with his accustomed zeal, love of the royal service, and of the public service, etc., and that he shall see to the compliance hereof as far as possible that whenever he notices any difficulty he shall inform me thereof, as well as all the information regarding the carrying out and perfection thereof, wherefor I do command the justice and other persons subject to my jurisdiction to consider and take him as such governor of the above mentioned towns and director of the new road, and to observe and cause to be observed towards him all of the rights and privileges to which he is entitled, and in order that it may be effective it shall be made known to the *governor of this Province and the lieutenant of the district of Gracias*, whoever they may be, to make note of this in the general accounting office of the Kingdom regarding the waiver of the royal tax as above stated, and like notice given to all other courts. In witness whereof I issue the present title with my coat of arms, signed in my own handwriting, and countersigned by the second officer of my department of the Government and Captaincy General *at the Hacienda de la Majada in the jurisdiction of Comayagua*, on January 11, 1782. Matias de Galvez. By order of his excellency, Nicholas de Eccta. (Seal.) Title of the governor of the town which is to be formed at the foot of the Mountain of Copan, and that of Jigua which is to be enlarged, and director for the im-

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provement of the new road, in favor of Domingo de Claros. * * * Let note hereof be taken. Tribunal and Chief Accounting Office of New Guatemala, July 6, 1782. Ramirez. Note of this title is taken in the office of the secretary of this *Government at Comayagua, August 8, 1782.* Aybar. Note of this title is taken in the special liber kept for that purpose in this office of *the Auditor of Comayagua on August 3, 1782.* (Signed) Mendoza. (Signed) Tosta. * * * Note of this document has been made *in the Court over which I preside. Gracias a Dios, September 9, 1782.* Machado. * * * The original is found in the archives of the Honduras commission.

NOTE.—This document proves, first, that the Captain General of the Kingdom of Guatemala acknowledged in 1782 that the villages of Jigua and San Antonio del Descanso of the Province of Gracias were in Honduras; second, that the Mountain of Copan, which at that point is called Grita or Gallinero, on both sides belong to Honduras because he directs that the entrance and exits of the said mountain be settled; third, this acknowledgment was made by the captain general when he was in person in the district to which he refers, and certifying therein that that very place belonged to the jurisdiction of Comayagua.

EXHIBIT XX.

Royal rescript to the President of the Audiencia of Guatemala regarding the conquest of the Mosquitos.

(Archives of the Indies, Seville, section 65, case 6, file 30.)

The King. * * * To my governor and captain general of the Provinces of Guatemala and president of my royal audiencia which resides in the city of Santiago therein * * * (he begins by referring to a letter of Dec. 21, 1710, relative to the file in regard to the population of the place called Mosquitos Island); that said Indians had begun to extend themselves "for a distance of twelve leagues along the San Juan River in the jurisdiction of Nicaragua where they have settlements and ranches to within twenty leagues of the city of Trujillo"; that they have obtained arms "from the towns in the Provinces of Honduras and Nicaragua which they are continually invading") * * * and that in 1704 they invaded *the town of Amatique near the fortress of Golfo Dulce on the Honduras side* where they made prisoners many of the natives with their priest, killing other Indians, and the second time the same year they invaded the town of *Lemoa, district of the Province of Comayagua,* from which they carried away the Indians of the vicinity and committing many sacrifices in the churches. * * * Dated at Madrid, April

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30, 1714. * * * I, the King. * * * By order of our lord, the King. * * * D. Diego Morales Velasco.

"Costa-Rica y Costa de Mosquitos," coleccion de documentos publicados por Manuel M. de Peralta, pagina 63. Paris, 1898.

EXHIBIT XXI.

Laws of the State of Guatemala regarding political divisions.

1. Article 35 of the Political Constitution of the State of Guatemala. The territory of the State comprises on the north all of the towns of the district of Chiquimula with Izabal and Castillo de San Felipe in Golfo Dulce, Verapaz, and Peten; etc. * * *

Law 4th, Articles of the Political Constitution decreed by its Assembly on Oct. 11, *1825*, declaring what towns are included in the territory of the State. Page 464, Vol. I.

2. Decree of the *Constitutional Assembly of November 4, 1825*, dividing the territory of the State into *seven departments.*

Article 1. The territory of the State shall be divided into the following seven departments: * * * 2. Chiquimula, which comprises all of the towns and valleys of the ancient corregimiento of Chiquimula and Zacapa. * * * Article 6. The department of Chiquimula shall be divided into seven districts, viz: Zacapa, Acasaguastlan, Sansaria, Esquipulas, Chiquimula, Jalapa, and Mita; and the following towns shall be the heads of these districts, namely, Zacapa, San Agustin, Guastatoya, Esquipulas, Chiquimula, Jalapa, and Asuncion Mita.

Law 5th, pages 467–468, Vol. I.

3. Territorial division of the State of *Guatemala for the administration of justice.* Section 1st. District 4th. Chiquimula. Circuit of Chiquimula: Chiquimula, San Jose, Ipala, Oregano, Cubiletes, Hermita, Alotepeque, San Isidro, Concepcion, Esquipulas, Atulapa, Jagua, Olapa, Piedra de Amolar, Orcones, Jupilingo, Camotan, Jocotan, San Juan Hermita, Chanco, San Nicolas, Quesaltepeque, San Jacinto, Santa Elena, San Esteban * * * Circuit of Zacapa: Zacapa, Santa Lucia, San Pablo, Gualan, Izabal, Riohondo, Trapichem Estanzuela, Uzumatan, Teculutan.

Guatemala, April 11, 1836, page 464, Volume I.

4. Decree of the *Constitutional Assembly dividing the State of Guatemala* into *seven departments and two districts:*

First. The State of Guatemala is divided into seven parts, to wit: Guatemala, Sacatepequez, Chimaltenango, Escuintla, Mita, Chiquimula, and Verapaz. * * *

Third. The districts and departments above mentioned shall comprise all of the towns and places which are set forth in the table which accompanies this law.

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Law 9th, Sept. 12th, *1839*, page 471, Volume I.

General table of the departments and districts into which is divided the State of Guatemala according to the arrangement decreed by the Constitutional Assembly of this date.

There is included as belonging to the Commandancia of Izabal the hamlet of Boca de Motagua; in the next there is the following: "The commandancia of Izabal and that of Peten should constitute the political government of the district and see to the development of the places therein comprised. * * * 9th. The curacies of this district depend on the bishopric of Yucatan. Office of the Secretary of the Constitutional Assembly, Guatemala, Sept. 9, 1839. Jose Mariano Vidaurre. Manuel Francisco Pavon.

5. Decree of the Government of *Guatemala*, dated May 24, *1848*, ordering that *elections be held for deputies to the constitutional convention* in accordance with the electoral law issued for the election of the ordinary legislature on August 5, 1838, which provides that the same be reprinted at length.

Article 3. The representative body shall be composed of 60 deputies in accordance with the distribution set forth in the annexed table, which shall constitute a part of this decree. It shall meet on August 15th next, etc.

(In the *table of electoral districts* to which said article refers in speaking of those of Esquipulas, Chiquimula, Zacapa, Gualan, and Izabal, which are those bordering on Honduras, no mention is made of Copan or of any other town, village, or hamlet which Honduras then possessed and has continued to possess, nor even of those which Guatemala has subsequently had possession of. The table reads: Chiquimula, San Esteban, Santa Elena, San Jose, San Jacinto, Jilotepeque, Ipala, Zacapa, Jocotan, Camotan, San Juan Hermita, Estanzuela, Santa Lucia, San Nicolas, Rio Hondo, Gualan, San Pablo, Izabal and Santo Tomas.)

Pages 121 and 135, Vol. I, Law 25, 1848.

6. *The electoral table*, published to carry out the *decree of 1851*, gives the number of departments which are to take part in the election and does not mention any of those which Guatemala now claims in Honduras. It reads thus: Guatemala, Sacatepequez, Chiquimula, Quezaltenango, Suchitepequez, Verapaz, Amatitlan, Totonicapam, Solola, Sam Marcos, Huehuetenango, Chimaltenango, Escuintla, Santa Rosa, El Peten, Gualan, Izabal, and Santo Tomas.

Guatemala, Oct. 19, *1851*.—Saravia-Padilla. Pages 139 and 140, Vol. I, 1851.

NOTE.—These extracts have been taken from the work entitled "*Compilation of the Laws of Guatemala*," by Manuel Pineda de Mont, by virtue of a special order of the Supreme Government of

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the Republic. *Official edition* made in accordance with the special resolution of the House of Representatives of the nation. *Guatemala, 1869.*

EXHIBIT XXII.

Dr. Villalobos to His Majesty the King regarding the state of the Audiencia of Guatemala.

SANTIAGO, GUATEMALA, *Oct. 10, 1573.*

ROYAL CATHOLIC MAJESTY.

* * * * * * *

7. About the month of August last of the present year I received a letter from Diego de Herrera, *governor and alcalde mayor of Honduras*, and from the officials of that Province, in which they advised me that they had transferred the exchequer and mint to Comayagua where they had gone to live, 30 leagues *further inland from San Pedro*, because of some mines which had been discovered 17 leagues from Comayagua. I wrote to them that they could not make that change without Your Majesty's orders, *because the city of San Pedro would later become depopulated*, and it is necessary to preserve that town, which is 10 leagues from Puerto de Cavallos, because if enemies came there aid could be brought up quickly, as it is a journey of one day or less, and the vessels which come from Spain could go there easily and from Comayagua this could not be done; and in order to mill the silver from the mines there would be no profit therein, because whatever should be extracted therefrom would be paid back into the exchequer in fees as is done in New Spain, and in order to live in Comayagua there is no necessity in that Province of officials, but your Majesty will decide what is best to be done.

Manuel Maria de Peralta, "Costa-Rica, Nicaragua y Panama en el siglo XVI," Paris y Madrid, 1883.)

EXHIBIT XXIII.

VI. City of Vall Dolid (which in the Indian language is called Comayagua) in the Province of Honduras.

* * * His Majesty appoints therein a governor and captain general with 2,000 mine dollars, or 450 mrs. each. Also an auditor and treasurer of the royal exchequer with 200 mrs. each. * * *.

In military matters the president fills these same positions which there are in the city of Salvador. His Majesty's alcaldia mayor for the mines of Santa Lucia and Guazaxaran who resides in the Indian village of Tegucigalpa in this Province of Honduras with 400

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mine dollars salary a year. In 1644 the President of Guatemala wrote to His Majesty regarding the great wealth contained in these mines. It was inhabited by as many as 50 people and His Majesty made a concession to the miners that on the gold and silver which they mined they should pay only one-tenth instead of one-fifth and that the quintal of mercury * * *.

Port of Santos Tomas de Castilla. This was discovered by the Spaniards on March 7th of the year 1525, which was the saint day of Dr. St. Tomas de Aquino. It is 60 leagues from the city of Santiago of Guatemala * * * Alcalde mayor of *Santo Tomas de Castilla in Honduras.*

Juan Diez de la Calle, "Memorial y Noticias Sacras y Reales del Imperio de las Indias Occidentales," *1646.*

EXHIBIT XXIV.

Instructions to be observed by Field Marshal Francisco Cagigal de la Vega in the Government Captaincy General of the Kingdom of Guatemala.

Minute * * *

The King.

Francisco Cagigal de la Vega, field marshal of my armies and Governor and Captain General elect of the Kingdom of Guatemala and president of the audiencia which resides in the city of Santiago. The special care and attention which the King, my lord and father (may he rest in glory) devoted to the righteous administration of justice in all of his dominions, and the aid, benefit and peace of his vassals, caused His Majesty to issue various orders for reestablishing in the best condition the audiencia of the city of Guatemala and the political and economic government of that Kingdom; among other measures that of removing the ministers thereof for just cause and in the interest of his royal service, appointing in their place others who were zealous, intelligent, and literate, who with their capacity, prudence, and rectitude should carry out the wishes of His Majesty. And I deeming it very important for the better securing of these objects that there shall be at the head of the said audiencia a person of authority, efficiency and well-established good conduct, who shall manage in the proper manner not only the business and affairs which specially and exclusively appertain to the presidency but also the military measures and operations and others incidental thereto that may occur in all matters, because it is of great interest to my service that there be placed and maintained in a state of regular defense the places and coasts of the Kingdom which are ex-

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posed to the attacks of my enemies or which may be used for contraband, with which these Provinces are infested, particularly those of Honduras and Nicaragua to the great detriment of my royal exchequer and of my vassals; and considering that you possess the aforesaid qualifications and others for the proper discharge * * *

I have decided to appoint you Governor and Captain General of the Provinces of the Kingdom of Guatemala and president of the audiencia which resides in the city of Santiago, and I have ordered that from the office of the Secretary of the Universal Department of the Indies there be issued to you a corresponding commission, sa that by virtue thereof you shall enter into the possession of the aforesaid offices, and in order that you may fill them with ability and carry out my royal wishes I want to admonish you on the more important things in order that you may take such measures as may be adequate in each case and occasion and apply them as may be advisable in accordance with the dictates of your experience, thereby accomplishing the desired results * * * as the King, my lord and father had received specific information of a project which the English had formed for the invasion and carrying on of hostilities against the Province of Nicaragua by entering the lagoon through the River San Juan and passing to Puerto del Realexo on the Sea of the South; make themselves masters of the commerce there and also that of the Sea of the North, and also having received information from zealous ministers and trustworthy information from the Province of Honduras that the English with absolutely no check under cover of the Zambos Mosquito Indians were taking advantage of the opportunity which presented itself from their establishments which they have made during the present war in the islands of Roatan, Utila, Masaguera and Guanaja. * * * For these important commissions, namely that of carrying on hostilities in due course against the Zambos Mosquito Indians, destroying and annihilating the establishments and villages of the enemies at various places that they have usurped and others of like trust, His Majesty appointed Brigadier Alonso de Heredia and Colonel Juan de Vera because of the confidence that he had that they would discharge these offices with ability, conferring upon the former the government of the Province of Nicaragua, together with the general command of his armies therein and in Costa Rica, district of Realejo, alcaldias mayores of Subtiava, Nicoya, and other territories comprised from Cape Gracias a Dios to the River Chagre exclusive, and to the second the government of the Province of Honduras and city of Comayagua, also with the general command of his armies therein, and in all of those comprised from the termination of the jurisdiction of the Governor and Captain General of the Province

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of Yucatan to Cape Gracias a Dios; and between them absolute jurisdiction and authority free of any other in all matters relating to smuggling and contraband, subordinating them only to the Governor of Campeche in the hostile operations against the Mosquito Indians. His Majesty had in mind the intelligence and military experience of these officials in granting them with such amplitude and independence the administration of these offices and their absolute direction thereof, and also because your predecessor being a mere civilian and military operations being foreign to his profession he might in many instances hinder such measures should he take part therein, and furthermore on account of the distance in communicating them would make their exercise ineffectual to the grave detriment of our service; but I considering now that the experience, information and training which you have acquired in our armies may contribute to obtaining with greater benefit and prompt effectiveness the objects of this order, and also the importance that they shall be subordinate to you as Governor and Captain General of the Kingdom of Guatemala to which you are entitled, but also because of the immediate duty which they owe you by reason of your rank and character, both in respect of the two matters of contraband and military expeditions, as in all other matters respectively and relating to your office, because it is my royal will that you shall act with plenary authority and shall have full jurisdiction in the exercise of the offices of governor and captain general; accordingly I have resolved that whatever they shall execute in compliance of the authority vested in them all matters they shall account to you in due course because of the knowledge of the measures they should take you can resort (should you so deem it advisable in the interest of my service) to such others as you might deem advisable and adaptable, as well as in case some other course should be advisable, you should dictate such yourself as your capacity and your presence there and the nature of the case might require; you to have authority in doubtful matters and in all other matters in which both officials should not be able to agree upon their measures, until the receipt by you of the orders which through the secretary of this department, I may communicate to you after hearing your representations and reports, provided, however, that on the two points above mentioned the audiencia shall not intervene because I have reserved them for you as governor and captain general for decision, and also the application of such orders therein as may be advisable; and the two officials above referred to in their respective jurisdictions shall be under your orders, and they shall be absolutely subordinate to you, as I have prescribed. * * * In the office of the secretary of the government of the Kingdom of Guatemala you

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will find the royal rescripts and orders issued to your predecessor relating to the appointment of the two officials above mentioned to the command of the Provinces of Honduras and Nicaragua and other places to which His Majesty saw fit to extend their jurisdiction, and with respect to the fact that the resolution then taken on the two points therein comprised is to subsist in toto as being important and advisable for the purposes which gave rise to them with the exception of the free exercise of their powers, because (as I have already stated) they are to act immediately that you take command of the Kingdom of Guatemala with absolute subordination to you and they shall render account to you of all that they do and I charge you to inform yourself carefully and punctually of the provisions of said rescripts and orders in order that you may proceed to their exact fulfillment with the activity and zeal which I expect from your love of my service * * * and I charge you that you give me an account on every occasion and through whatever medium may be at your command of all that you may execute in compliance and in the discharge of the above, for that is my will. Issued at Buen Retiro on January 3, 1747.

General Archives of the Indies, Audiencia of Guatemala. Correspondence with the Governors and Presidents. Section 100, case 3, file 10.

HONDURAN-GUATEMALAN BOUNDARY CONFERENCE,

September 5, 1918.

SIR: I have the honor to acknowledge the receipt of your note dated August 28, with which you return the original of your "duplica" dated June 28, 1918, and transmit your "ampliacion" of the 27th ultimo.

Your note dated the 31st of August, a duplicate "ampliacion," and the original and duplicate exhibits, referred to therein, were received to-day, and the duplicates have been forwarded to the chief of the Guatemalan boundary mission.

The original of the "duplica" I am returning to the Department of State, in order that it may be kept with the other documents which relate to this conference.

With assurance of my highest consideration and best wishes for the health of your excellency and that of the members of your family, I have the honor to remain,

Yours, very truly,

BOAZ LONG.

His excellency the Hon. POLICARPO BONILLA,

Representative on Special Mission of the Government of Honduras before the Honduran-Guatemalan Boundary Conference.

WASHINGTON, D. C.

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[Translation.]

GUATEMALAN SPECIAL BOUNDARY COMMISSION,
Washington, D. C., September 20, 1918.

To the honorable MINISTER: I have the honor of enclosing herewith to your excellency the reply of the Guatemalan delegation to the amplification of the Honduran dúplica, dated August 27, 1918; and I also enclose copy of said reply, which you may, if your excellency so desires, be kind enough to have delivered to the honorable Dr. don Policarpo Bonilla, special representative of Honduras.

I shall take pleasure in delivering to your excellency English translation of the said document, as well as the original proofs with index and respective translation, as soon as the person whom I have requested to do this work has completed it.

I take advantage of this opportunity to renew to your excellency assurance of my most profound esteem.

(Signed) LUIS TOLEDO HERRARTE.

To his excellency, Mr. BOAZ LONG,
Representative of the Mediator in the Boundary Conference with Honduras, etc., etc.
(2 enclosures.)

ANSWER OF THE DELEGATION OF GUATEMALA (DATED SEPT. 20) TO THE AMPLIFICATIONS OF THE ANSWER OF HONDURAS DATED AUGUST 27, 1918.

I shall refer in a few words to the last plea of the honorable delegation of Honduras, which under the title of "Amplification of the Answer of Honduras" was by it submitted to the representatives of the mediator at the conference on boundaries with Guatemala, under date of August 27 ultimo.

I have no objections whatever to accept that to the points stated in my answer of July 27 of the present year shall be added, as desired by Señor Bonilla, the one relating to the filing of the briefs of the American lawyers, and I also agreed to the proposition that such evidence as has not as yet been filed shall be previously delivered to the mediator who will be empowered to call the parties to a conference either together or separately in case that he should so deem it advisable.

The controversy must be examined from a strictly legal point of view in order to establish with exactness and precision the territorial rights of Guatemala and Honduras, and in order to comply with the indispensable requisite, I understand that this study must be made strictly and only upon the basis of the treaty of 1914 which constitutes the law by which we must be governed, and the provisions and

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stipulations of which have been considered by both parties as the invariable standard to which the whole procedure, after reaching a just solution of the controversy, must be adjusted.

Both the honorable delegation of Honduras and the delegation over which I have the honor to preside have already stated everything they have deemed necessary to establish, according to law, where the boundary line must be established between the two States, and for this purpose they have filed all the briefs and arguments which they have deemed advisable.

It is therefore proper to state now:

That the fact that each party has declared how far their respective claims extend does not necessarily imply that their demands extend to that point also and much less that such be the lines which will be ultimately fixed.

We have been called together by the illustrious Government of the United States that we may arrive at a friendly settlement which shall put an end to our differences, and having gratefully accepted such a friendly and honorable initiative, we have tacitly agreed to yield part of our rights because the idea of a compromise carries with it, according to the universally recognized practice, the indispensable condition that the contending parties shall yield or sacrifice something of what rightfully belongs to them.

As it has not been possible—by reasons which it is not necessary to state here—for the representatives of the nations concerned to reach a direct understanding, it is now proper for the honorable mediator to take the foregoing into consideration and give us his friendly and impartial advice. We confidently look for it, inasmuch as we are thoroughly convinced that before giving it he shall weight in the scales of justice the right and the evidence of each estate and weighing them according to the stipulations of the solemn treaties which binds them, he shall find a way to conciliate their present and future interests, political as well as economic and commercial interests, and to recommend a boundary which shall be a sure guarantee of peace and good harmony and a bond of perpetual friendship between the two countries.

That boundary shall fully comply with the purpose for which it is made if it is natural and invariable and clearly defined and meets all such conditions as experience would seem to advise for separating the States without leaving their mutual interests under threat or danger of conflict, which it would in any event fatally give rise in the near future to difficulties and frictions which we all have the firm purpose of avoiding.

Having made the foregoing declarations which I have deemed necessary I shall proceed to examine briefly, for I have done it extensively and in detail in my former allegations, the territorial

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rights of Guatemala and Honduras, by which I hope to answer and rebut the principal arguments advanced by my honorable adversary.

First I must call attention to an error in which Dr. Bonilla incurs when he says in the memorandum which he presented at the session held on June 22: "That the treaty of 1914 is obligatory for the two States, *and that it expressly establishes that the extension of the territory which constituted the old Provinces of Guatemala and Honduras to the time of the independence shall be taken as the principal basis for determining* the boundary line between the two countries."

That, so far as the underscored lines are concerned, is not so; the treaty speaks of *comprehension* which according to the said treaty is not the same thing as *the extension of the territory* which has been possessed as it is given to understand by Señor Bonilla. This fundamental mistake has led the honorable delegate of Honduras to err in all his work in trying to establish the rights of both estates. To that mistake is due the fact that he should aspire to base the rights of Honduras on the possession which he asserts she had of the territory in dispute. His arguments in this respect may be briefly stated thus: Honduras has possessed all that territory—which is not so according to the admission made by the party of the other side—therefore she is the owner and master of it; Guatemala has not possessed it, therefore it does not belong to her.

This reasoning is devoid of foundation according to the general principles of law, but even more expressly so by the clear and precise rules established by the treaty of 1914. Indeed, that treaty fixes in Article VI the order in which the evidence must be taken into consideration in order to determine the territorial rights of both nations and places after the works of the joint boundary commission, *the lines demarcated in public documents not contradicted by others of equal or greater force.* Therefore, if there are boundaries marked out in public documents it is not proper, and it must not be done, to base the outline of the said boundary on the mere possession alleged by Honduras. This hierarchial order is not only stipulated by the treaty but is also accepted and sustained by Dr. Bonilla, and for these reasons it may be said that it is not proper to depart from it in order to lay down the basis for the demarcation. To sum up: There are demarcatory lines perfectly fixed *in public documents* and therefore, if the letter as well as the spirit of the law are to prevail, it is proper to take into consideration the other probatory documents mentioned in the other sections and clauses of the said Article VI; which compels me to refuse as irrelevant and improper for the solution of the controversy all such documents and vouchers as are invoked by the party of the opposite side with the object of giving to a mere possession a value which clearly is denied to it by the boundary treaty in force.

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It would be only in the event that there should not be any documents of the class which the treaty assigns to the second category, that it would be proper to enter into an examination of subsidiary documents enumerated in the strict order in which they are fixed there. To do that without the concurrence of that circumstance would be to distort the treaty and to provoke confusion and disconcertion, which are good only to render it difficult, not to say impossible, to reach the settlement which is desired.

That Guatemala has not possessed for a single day, nor for a single hour, the territory which extends up the line Ulua, Gulf of Fonseca, is not absolutely correct, as it can be proved; but even supposing that it was, has she lost her right on account of this? Have the royal decrees of 1563 and 1564 been for such a reason legally revoked? Not by any means; the right of property, the sovereignty, is previous to the possession. The possession comes afterward. There is the law which fixes as the boundaries of Guatemala and Honduras the line Ulua, Gulf of Fonseca; therefore, Guatemala, relying on the said law—that is to say, on the decrees of 1563 and 1564—has a perfect right to ask and obtain the possession of that which belongs to her. With the States is the same as with the individuals. If a person has the right of property over real estate but does not possess it, the title which he has does not lose for that reason its value and efficiency; on the contrary, just because he does not possess his real estate, relying on his title, he demands and obtains the possession of that which legitimately belongs to him. Otherwise the action to recover the possession of the property in such cases would not exist.

Furthermore, supposing without conceding it, that Honduras should have had that possession with the implied and even with the expressed consent of Guatemala, in that case the latter would not have lost her rights; because the action to regain possession being a right and not an obligation, may be perfectly exercised when the party in interest shall deem it opportune and advisable. I could adduce many more arguments to show that possession alone does not invalidate the titles which establish the sovereignty of a State; but I shall not do it for the simple reason that I deem it over and above and unnecessary. I wish only to add that in conformity with the treaty in force, not even if there was not any royal decree in which the boundary line should be demarcated, could the possession be invoked for such a purpose, because the said treaty expressly established that value shall be given to it only when it is just, legitimate, and well founded; that is to say, when it shall be founded on right.

Therefore, everything which Dr. Bonilla has said, all the documents which he has presented, the maps which he promises to ex-

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hibit, the citations which he makes from historians and geographers, and every proof of that same nature which he might present in the future, must be discarded from the question according to the treaty, because, as I have conclusively shown, possession alone gives no right whatsoever, nor does it disparage against the royal titles on which Guatemala bases her sovereignty—royal decrees of 1563 and 1564.

That there are royal decrees demarcating the boundary line between Guatemala and Honduras is entirely beyond discussion. These are the royal decrees of 1563 and 1564 which have been so many times cited. That these documents constitute the corner stones on which must rest the final determination of the boundaries is impliedly admitted by Señor Bonilla, when he unsuccessfully pretends to show that the royal decree appointing Don Juan de Vera belongs to the category of those on which Guatemala bases her rights.

It logically results from this that looking straight to the treaty in force these are the *only documents* that must be taken into consideration for the solution of the controversy. Being faithful to that principle and animated with the purpose of simplifying the procedure, without twisting its direction with irrelevant arguments, citations, and references, the delegation of Guatemala abstains from presenting on her part, as she could perfectly well do, documents of the character and nature which she refutes above, deeming that it is not the number of papers which may be exhibited, but their relevancy and efficacy which constitutes their real and true merit.

Señor Bonilla has strenuously insisted and still insists on asserting that Guatemala had never claimed the line of the Ulua and the Gulf of Fonseca, and that Honduras has always maintained the same attitude that she now adopts in this respect. And from this absolute and unconfirmed assertion, he concludes that Guatemala has no rights whatsoever to the territories, the possession of which the latter pleads to regain, because she has claimed them until now; whereas Honduras, because she has sustained before that which she asks for now, shows that her claims are well founded and legal.

This argument is so specious and so unfounded that it is only for the purpose of bringing out such conditions that I dwell slightly on it.

Indeed, what would be the dangerous extremes to which we would go if we should admit as a juridical rule that the truth, the foundation, the soundness of a right, should be proved fully and only by the length of time during which it has been claimed.

On the other hand, and in order to rebut the insinuations made upon the same topic by Señor Bonilla, I wish to avail myself of his own words. In his memorandum of May 24 last, referring to the claim of the commissioners of Guatemala, at the conferences of

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1908 and 1910, to fix the boundary line over the summit of the mountain, literally says: "This has compelled the Government of Honduras to seek documents of every description which have convinced her that she has a well-founded right of an extension of territory possessed by Guatemala on the other side of the Motagua, from the point in which it reaches the said river up to Golfo Dulce, and along the banks of the latter to the present Colony of Belice."

Now, then, if Honduras, by reason of this question, and of the attitude adopted by Guatemala, was compelled to seek all kinds of documents which convinced her that she has well-founded rights over the territory possessed by Guatemala from the River Motagua to the Colony Belice and that for that reason she extends her aspirations to that point, why should it be blameworthy that Guatemala should have done the same thing? If Honduras was right and did well in seeking all kinds of documents and, from the conviction gained from them, she wants to carry her frontier to Belice, is it blameworthy that Guatemala should have acted in an identical manner and from the conviction gained by her from the documents which she on her part found, should extend now the claim of her right to the River Ulúa and the Gulf of Fonseca?

Indeed, I find only one difference, and that is that the documents discovered by Honduras—the royal decree appointing Don Juan de Vera as governor—prove nothing by themselves, nor in accordance with the treaty, as I have amply shown, while those found by Guatemala—royal decrees of 1563 and 1564—are of incontestable value according to said treaty, and that therefore the conviction gained by Honduras is wanting in reason and foundation, while that of Guatemala is solidly founded on right and on the written law.

Before proceeding any further, I deem it advisable to call attention to what has been stated by Señor Bonilla in the same paragraphs which I have already quoted, to the effect that Honduras sought documents and that from the context of those which she found, she was convinced that she has a well-founded right over an extension of the territory which Guatemala possesses on the left bank of the River Motagua.

Now then, notwithstanding the fact that Señor Bonilla plainly confesses that that territory is possessed by Guatemala, he asks that it be returned to her, and that the boundary line be fixed up to the frontier of Belice. Then, if in spite of the possession which Guatemala has of that territory, Honduras has not lost her right over it and asks that it be returned to her, how is it that when Guatemala asks that hers be recognized, Señor Bonilla declares that she has no such rights, because she never has possessed the territories, the possession of which she now claims?

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The very words of the honorable representative of Honduras are the best argument to show that he is not in the right as regards everything that he has stated in respect to possession.

I have already shown, in the clearest manner, without having recourse to wilfull interpretations, but applying the natural and logical meaning of the words used, that the royal decree of 1563 was not revoked but completed, confirmed, and strengthened by that of 1564.

For this reason I do not deem it necessary to enlarge any longer upon this matter, confining myself to state that the five reasons alleged by Señor Bonilla to show that the royal decree of 1564 does not confirm but that it derogates that of 1563, have already been answered and rebutted in my former pleadings.

For greater clarity I shall add the following argument: By the royal decree of 1563 fixing the boundaries of the Province of Guatemala the River Ulua and the Gulf of Fonseca were fixed as such, expressly leaving within the Province of Guatemala, San Gil de Buenavista and the village of Gracias a Dios.

If at the time of issuing the royal decree of 1564, the material parts of which provides: "And by the side which bounds on the Province of Honduras she must remain with the boundaries which she has had until now," it would have been the intention of the King that she should follow the same indefinite boundaries which she had had before 1563, undoubtedly San Gil and Gracias a Dios would have remained again within the Honduran territory. But as these towns had been expressly given to Guatemala, it is evident that in order that they should again belong to Honduras, it was necessary that the King should decree it expressly, using the same form which he employed in the royal decree of 1563, when he ordered that they should be added to Guatemala.

If the royal decree of 1564 does not mention San Gil and Gracias, it is indisputable that it was because the King did not want to return these towns to Honduras, nor did he wish to mean when he ordered that it should follow the boundaries which she had had until then, that the vague and indefinite frontiers which had bounded her before 1563 should be preserved.

This argument shows without leaving any room for doubt that the royal decree of 1564 did not revoke but, that as I have asserted, completed and confirmed the boundaries marked out in the royal decree of 1563.

In order that all this shall appear clearer and more precise, I enclose as an amplification the scheme and the explanation attached made by the engineers which form part of the Guatemalan delegation.

I find it strange, very strange, that Señor Bonilla should cite in support of his contention, treaties (completely foreign on the other

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hand to the boundary question), communications, notes, letters, telegrams, etc., etc., subsequent to 1821, inasmuch as the boundary treaty of 1914, which he respects and accepts, stipulates that there shall be taken into consideration for demarcating the boundary line, documents previous to that year only, which is designed and marked out as a fundamental historical epoch to establish the territorial rights of each State, and thus leaves without value everything done subsequent to the aforementioned date. This fact, which the honorable representative of Honduras could not deny, in depriving the said documents of all probatory force prevents me from discussing or analyzing them, inasmuch as otherwise I would incur in the same inobservance of the treaty in force of which I now precisely complain.

Everything referring to the works of the joint boundary commission, the ecclesiastical jurisdictions, title deeds to lands, treaties with Spain and England, etc., etc., have been considered by me at great length and in detail in my former pleadings, and very specifically in my memorandum dated July 25 of the present year, and for this reason and because Señor Bonilla confines himself to reproducing his early arguments, without adding a single one which will detract from mine, I shall confine myself in regard to those points and for the sake of brevity, to ratify everything which I have stated in respect to them in the different memorials which I have had the honor to present.

This exposition being a summary of that which Guatemala has deemed it her duty to state in defense of her legitimate rights and well founded aspirations, it does not allow of a new synthesis; and in this sense, it only remains for me to finish to express once more to the enlightened Government of the United States the deep gratitude of the people of Guatemala for its friendly and valuable intervention, and to repeat that the delegation which I preside over, shall do all in its power to contribute to its complete success for the benefit of the continental harmony and as an homage which the free peoples of America pay to the sacred principles of justice and law.

LUIS TOLEDO HERRARTE.

WASHINGTON, D. C., *20th of September, 1918.*

The two royal decrees of September 8, 1563, have left no room for doubt in respect to their interpretation. It is not so with regard to that of May 17, 1564, which has given rise to conjectures from the commission of Honduras in respect to its true sense, in spite of the fact that it does not lend itself to any other than that which has been given to it by the delegation of Guatemala. For this reason we will insist again that the said royal decree does not admit of any wrong

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interpretation, and that its only just and logical sense is the one which we have given to it.

The Bay of Fonseca, the Provinces of Guatemala and Honduras, the Northern and Southern Seas, and the position of the towns of Gracias and San Gil may be represented according to the attached scheme.

I. The royal decree of 1564 provides: "From the Bay of Fonseca inclusive to the Province of Honduras exclusive by a straight line." This is equivalent to saying that by means of a straight line running *from* the bay *to* Honduras, the first shall be included within Guatemala and the second excluded from it. In order to succeed in including the bay, we need to make the straight line start from the southeast extremity of its surface, which is the point A; therefore, to exclude Honduras we shall necessarily have to make the straight line reach its northwest extremity, which is B.

II. If the word *to* should mean that the straight line should reach only to C but not to B, as it is claimed by Señor Bonilla, the word *from* would also mean that the straight line should start from D, but not from A; and as in this case it would not include the bay, in the other case it would not exclude Honduras, which is contrary to that which has been provided.

III. If instead of defining the boundary line from south to north as the limit of Guatemala, it should be done from north to south, as the limit of Honduras, that is to say, if instead of saying "from the Bay of Fonseca inclusive to the Province of Honduras exclusive by a straight line," we should say "from the Province of Honduras inclusive to the Bay of Fonseca exclusive by a straight line," we would not alter in the least the boundary which was decreed to be fixed; and, just as in the first case, the straight line should start from A, in the second case it would start from B, and at all events the boundary line would be A B or B A, but never A C or B D.

IV. And if to this is added that Guatemala should remain according to this royal decree "with the same boundaries which she has had *until now*," which boundaries were those assigned to her by the royal decree of 1563 to the River Ulua, it follows that this river, or the line or straight line running through it and the extremes of which are the Bay of Fonseca and the mouth of the River Ulua, was perfectly established as the boundary by the royal decree of 1564; that the two royal decrees fixed the same boundary between Guatemala and Honduras; that this is the same boundary which was fixed by the audiencias and *is* the one which Guatemala recognizes.

V. The adverbial mode *sin embargo* (notwithstanding) derives and is exactly the same thing as the expression *no embargante* (without prejudice), which is equivalent to say that *it does not prevent*, that *it does not hinder*, or that *it does not serve as an obstacle*. That

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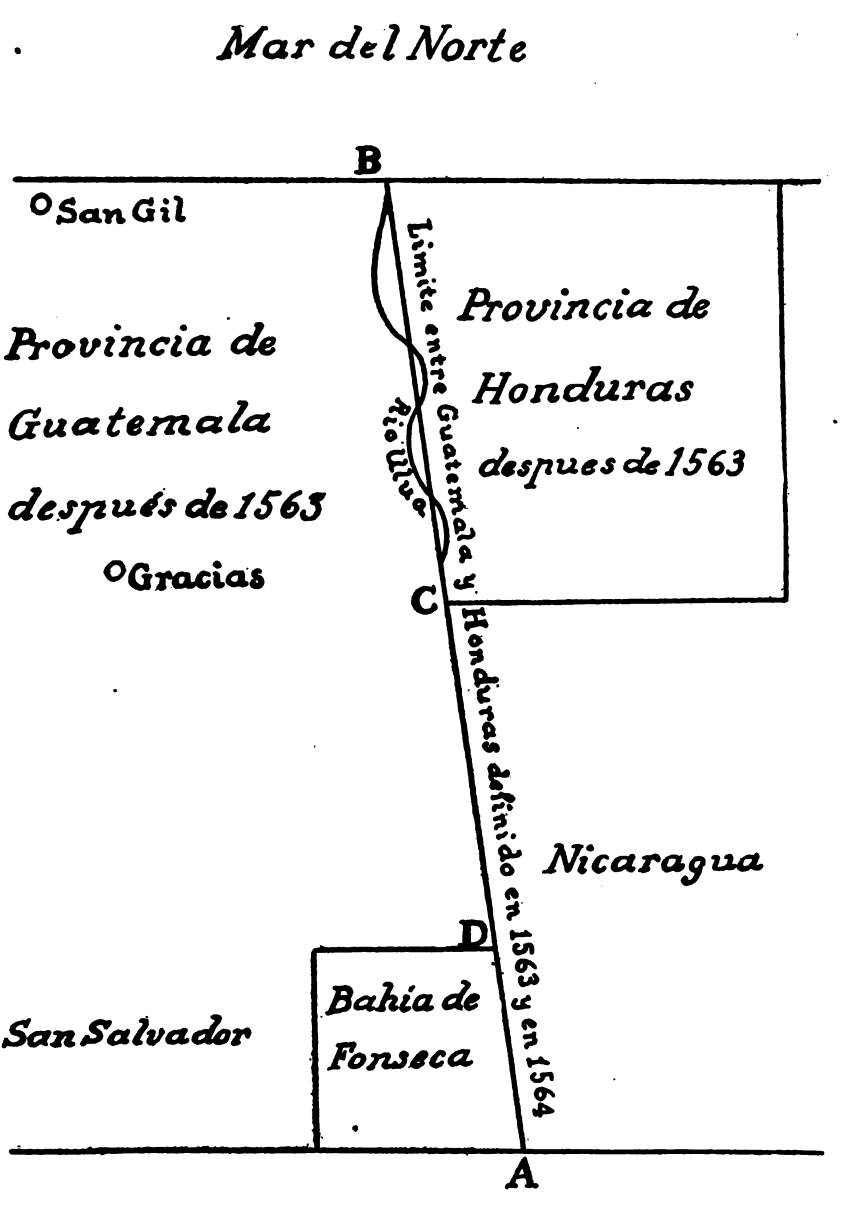

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phrase means in the royal decree in question, as it did in other similar ones of the same epoch, that the provisions thereof did not hinder the provisions of the other, and thus when in that of 1564 it is said "which we order to be kept and complied with *sin embargo* of another provision of ours which we ordered to be issued in respect to *the said boundaries* in the city of Zaragoza, etc.," it can not mean any other thing than that which he orders in the royal decree of 1564, does not constitute an obstacle nor prejudice the provisions of the royal decree of 1563. The words added at the end, "because it is our will that only this which we now issue shall be kept and complied with," can not refer to the provisions relating to the boundaries, since it had just ratified them; but refers to the appointment of a new governor of the Province of Guatemala, Juan del Busto y Villegas, and orders that such parts as relate to the appointment of the first governor appointed, who was Luis de Guzman, must not be kept or complied with.

DESCRIPTIVE INDEX OF THE PROBATORY DOCUMENTS DELIVERED BY THE DELEGATION OF GUATEMALA TO THE REPRESENTATIVE OF THE HONORABLE MEDIATOR IN THE BOUNDARY QUESTION WITH HONDURAS.

The evidence of Guatemala is composed of documents which must be taken as a basis to appreciate it; of documents which justify her territorial rights and of documents which show the unfounded claims of the opposite side in this controversy.

The first-named documents are the treaties of 1895 and 1914, which fix the principles or rules to which both countries must adjust themselves for the settlement of the boundary question between them. These treaties[1] furnish the criterion for its study and solution, and they do so with all precision and clarity in their Article VI, which provides: "In order to take the resolutions of the case, the contracting Governments shall, after the joint commission shall have presented the result of its work, bear in mind—the observations and studies of the said commission, the lines demarcated in public documents not contradicted by others of the same class and of greater force, giving to each the value which shall belong to it by reason of its antiquity and legal efficacy, the comprehension of the territory which constituted the old Provinces of Guatemala and Honduras to the date of their independence; the provisions of the royal ordinance of "intendentes" which was then in force; and in general all such documents, maps, plans, etc., which may lead to the discovery of truth, giving the preference to those which, by their nature, must have more force by reason of their antiquity, or because they be

[1] These treaties will be found on pages 17 to 21.

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clearer, more just and impartial, or by any other reason founded upon the principles of justice. Value must be given to possessions only in so far as it is just; legitimate, and well founded, according to the general principles of law and to the rules of justice which upon the subject have been sanctioned by the law of nations."

In the order indicated must be taken into consideration such elements as may be useful for the purpose of determining the territorial rights of the two countries.

As it may be seen from the article quoted from the treaty, if the technical joint commission should have presented *the result of their work and proposed the basis* which, in their judgment, should be adopted to conclude a treaty which shall finally fix the boundaries of both Republics, *accompanying a plan in which shall be marked out the boundary line*, in such manner as the said commission shall judge that it must be marked out according to the results of their studies, as clearly provided by Article VI of the said treaty of 1914, and if those bases, proposed by the commission, should have been discussed and approved by the Governments, which are about to enter into negotiations as provided in Article V of the said treaty, there is no doubt that in such a case the works of the commission would be the primary elements, the basic foundations of the negotiations in strict accordance with Article VI, and other articles already cited; but the commissions did not complete their works, nor did they present any basis to the Governments, nor did they mark out the boundary line; and the said Governments, therefore, could not have discussed and approved such bases, and the unfinished works of the commissions have no value whatsoever, because, as it has been amply shown in the different memoranda presented, the said commissions did not adhere to the treaty of 1895, which was an indispensable requisite for the said works to have validity in accordance with Article XVI of the convention of 1914.

Thus then the works of the commission do not constitute probatory elements, and we must look to the other documents to which Article VI of the treaty refers. In the first place, the lines demarcated in public documents, Guatemala justifies her territorial rights upon two documents of this class—the royal decrees of September 8, 1563, and of May 17, 1564. Both documents have been dictated by the Spanish Sovereign, with the primary object of fixing boundaries, and there are no other documents of their class which shall contradict them, and for the reasons as well as for their antiquity, they have the greatest efficacy. I do not believe it necessary to analyze those documents now, because this has been amply done in the memoranda presented, and neither do I believe it necessary

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to accompany them with a formal certification, because Dr. Bonilla himself has presented copies of them and I am satisfied with them.

Besides those fundamental documents of the rights of Guatemala, there are others which are useful as antecedents, and others which confirm them and show their legal force after their issue.

Those which may serve or be useful as antecedents are the following:

(*a*) Royal decree dated at Burgos on December 18, 1527, by which it is granted to Don Pedro de Alvarado the title of governor of the Province of Guatemala, comprising in the said Province the city of Santiago of Guatemala with the territory of Yucatan and Sinacantán, Tecuepanpuyumatlán and of Acala and Cuistepeque with all appurtenances thereto—[*page 286 italics*]. By the said document it is shown that since the time of its origin the Province of Guatemala extended to Yucatan and even comprised that territory. Therefore, since that time were included within her jurisdiction not only the neighboring territories up to Yucatan, which Honduras now claims, but also the Yucatan territory, which was subsequently segregated.

(*b*) Letter of the Adelantado Francisco de Montejo to His Majesty, dated at Naco, on July 28, 1533. By the said document two points are shown, which constitute an antecedent of the royal decrees of 1563 and 1564: First that Alvarado, with Indians from Guatemala, subjugated the territories which extended to the River Ulua, this being a reason which His Majesty took into account in fixing this boundary for the Province of Guatemala—[*page 299 italics*]; and second, that the disputes between the Governments of Honduras and Guatemala were over boundaries between the two Provinces, the former claiming the territories of Gracias a Dios, belonging to the Province governed by the latter—[*page 292 italics*]. By this it is shown that the said boundary question did exist at that time with the result that His Majesty did fix the boundaries of the Provinces in the royal provisions of 1563 and 1564 already cited.

The documents which confirm these provisions are the following:

(*c*) Royal decree dated at Madrid on May 23, 1675, by which Her Majesty, the governing Queen, orders the bishop of Guatemala to report on the appropriations made out of the royal treasury for the maintenance of the infantry and signal watch of the Port of the Gulf of the Province of Guatemala—[*pages 298–9 italics*]. In said royal provision it is clearly and precisely determined that the Port of the Gulf belonged to the Province of Guatemala, contrary to the assertions of the honorable delegate of Honduras.

(*d*) The royal decrees of August 27, 1676, approving the disbursements made by the royal officers of Guatemala to attend to the provision of cake and meat for the castle of the Gulf, by which

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it is shown that the said castle was included within the jurisdiction of the Province of Guatemala, but not within the jurisdiction of Honduras, because it was out of the treasury of Guatemala that the expenses of the said castle were defrayed—[*page 300 italics*].

(*e*) Letter of the bishop of Guatemala answering the decree of November 30, 1676, by which he was ordered to report on the annexation of the guardianship of Nacaome, to the bishopric of Comayagua. By the said letter, the report of the attorney general, which is written on the back thereof, and the resolution of the council of Indies, dated July 14, 1678, it is shown that the territorial jurisdiction of the Province of Guatemala at that time extended to Choluteca, which confirms the boundaries fixed by the royal decrees of 1563 and 1564.

(*f*) Description and map of the parish of Jocotan, taken from the visit made by the Archbishop Cortez y Larraz in the year 1778; by the said document it is shown that the Valley of Copan belonged to the parish of Jocotan within the territorial circumscription of the Province of Guatemala, by which are also confirmed the royal decrees of 1563 and 1564, which leave that place within the boundaries fixed by them—[*page 309 italics*].

(*g*) Table of the towns comprised within the vicarship of Zacapa in the Province of Guatemala, taken from the general table of the archbishopric, compiled by Dr. Cayetano Francos y Monroy in the year 1784; by the said table it is shown that the Valley of Copan is included within the territorial circumscription of the Province of Guatemala.

The documents which destroy the claims of Honduras are the following: (*h*) The title which the King granted to Don Juan de Vera when he was appointed governor of Honduras. By the said document the following is shown: First, that de Vera was appointed governor of that Province with the same powers, jurisdiction, and authority which the other governors had had. Therefore, it can not be concluded, as it is done by Señor Bonilla, that full and absolute jurisdiction was granted to him to the boundaries of Yucatan, but that he was only granted the jurisdiction had by his predecessors—page 2, underscored paragraph; second, that in the same way, independently of the office of governor of Honduras, he was appointed general commander of the armies of the said Province of Honduras and of the territories and coasts where ends the jurisdiction of the governor and captain general of Yucatan to the Cape of Gracias a Dios; that is to say, therefore, that in the said territories only military command was given to him, with the power also of pursuing the contraband [*pages 313–4 italics*], for which only he was declared exempt of other jurisdiction—[*page 314 italics*]; and third, that His

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Majesty left in force the other laws and forbade de Vera to mix in the political and civil government of another governmental district extending to the coast, where he was given military jurisdiction only by which it is shown that the purely personal commission which was conferred upon Señor de Vera never implied the modification of the established boundaries, nor could any territorial rights have been granted to the Province of Honduras—[*page 314 italics*].

(*i*) Royal decree of January 2, 1747, by which the following is shown: First, that Don Juan de Vera was granted military jurisdiction over the coasts of the Province of Guatemala, because the President of Guatemala was a mere man of letters and military operations were foreign to him; and second, that His Majesty having resolved to appoint Don Francisco Cagigal de la Vega, who was a person of military graduation, governor of Guatemala, he granted to him all ample and absolute jurisdiction, without any exception or limitation whatsoever, thereby depriving De Vera of the military powers which he had granted to him—[*page 315*].

(*j*) Letter of the President of Guatemala to the Secretary of State and of the general office of the exchequer, consulting him as to whom must issue the title deeds to lands which are distributed in Truxillo and royal decree providing that they be issued by the said functionary of Guatemala. These documents are offered to show that the title deeds to lands are not proper to prove any territorial right, because if they were Guatemala would have the right to claim Truxillo, because she has issued such titles therein, a place which never has been included within her territorial jurisdiction. Therefore, the title deeds to lands on which Honduras attempts to found her rights, lack all value for such purposes.

(*k*) Report of the constitutional solicitor general of the municipality of Comayagua, dated October 16, 1820, in which he says that Law 15, Book V, Title I of the Compilation of Indias, states in detail the boundaries of the Province, which are the islands of the Guanajas. That document, issued by a person who had an official character a very short time before the independence, clearly shows that the Honduran authorities did not consider the boundaries of their Province as fixed by the decree relating to the appointment of Don Juan de Vera, as it is claimed by Señor Bonilla, because if it had been thus they would not have had to appeal to a very old compiled law, which does not even demarcate any boundaries, but only indicates that the islands Guanajas are within the boundaries of Honduras, to show that this was a Province and had a right to a delegation; that they have not appealed to the decrees in force of 1563 and 1564, it is easily explained because the Hondurans never felt inclined to obey them, and hence the present boundary controversy.

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By the documents presented it is shown then that the boundaries between Guatemala and Honduras are fixed by the royal decrees of 1563 and 1564, which are the only royal demarcatory provisions in existence and, according to the treaty of 1914, having a preferent value, over any other document. Of no use are, therefore, the maps, opinions of historians or geographers, title deeds to lands, etc.; there are the two said royal decrees special for the case, and the question must be determined in conformity with the provisions thereof, since according to the treaty in force, the boundaries shall be fixed, taken into consideration in the first place, the lines demarcated in public documents, not contradicted by others of equal class and of greater force, giving to each the value corresponding thereto, according to their antiquity and juridicial efficacy—Article VI—all these being requisites fully complied with by the two royal decrees already cited, and it is not necessary for Guatemala to have had actual possession of all the territories included within her territorial jurisdiction set out to her in those documents, in order to have a perfect right thereto, it being enough for her claiming them to possess the legal titles which she now exhibits.

DOCUMENT "A." GENERAL ARCHIVES OF INDIES. SEVILLE. SIMANCAS—SECULAR. AUDIENCIA OF GUATEMALA. LETTERS AND RECORDS OF THE PRESIDENT AND JUSTICES OF THE SAID AUDIENCIA, YEAR 1574 TO 1597.

(Shelf 63, box No. 6, file 10.)

(A) 1527. COMMUNICATION OF THE TITLE OF GOVERNOR OF THE PROVINCE OF GUATEMALA WITH THE TERRITORY OF YUCATAN, GRANTED TO DON PEDRO DE ALVARADO.

Seal of the general archives of Indies.

Know all men by these presents that:

I, the adelantado don Pedro de Alvarado, governor and captain general of Guathemala and its Provinces, say that whereas His Majesty by a provision intrusted the said offices to me, as it is more extensively stated in the provision which he ordered me to issue, and the tenor of which is as follows:

Don Carlos, by the grace of God King of the Romans, semper august Emperor, and Doña Joana his mother, and the said Don Carlos by the same grace Kings of Castile, of Leon, of Aragon, of the two Sicilies, of Jerusalem, of Navarra, of Granada, of Toledo, of Valencia, of Galicia, of Mallorcas, of Seville, of Sardinia, of Cordova, of Corsica, of Murcia, of Jaen, of the Algarves, of Algecira, of Gibraltar, of Canary Islands, of the Indias Islands, and terra firma of the ocean seas; Earls of Barcelona and Lord of Biscay, of Molina; Duke of Athens and of Naopatria; Earl of Ruysellon and of Cordana; Marquis of Oristan and of Burgundy; Archduke of Austria;

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Duke of Burgundy and of Brabant; Earl of Flanders and of Tyrol, etc., whereas we have been certified the many and good loyal service which you, *Captain Pedro Alvaredo, have rendered to us in the conquest and pacification of new Provinces, especially in the Province which is called Guathemala, and because we understand that it is thus proper to our service and for the good government of that territory and the administration of our justice therein it is our grace and will that now and henceforth so far as it is our pleasure you, the said Pedro de Alvarado, be our governor and captain general of the said territory and Province of Guathemala, which are the city of Guathemala which is now called Sanctiago, with the territory of Youcatan and Sinacatan and Tequepanpuyunatlan and of Acala and of Cuistepeque, with all appurtenances belonging thereto*, provided that in all things relating to the government as well as to the administration of justice you, the said Pedro de Alvarado, and your officers and lieutenants shall be subject to our superior court (audiencia) and royal chancery, which must be located in the great city of Tenustitlan Mexico, and that from you and your officers and lieutenants an appeal may be taken in all civil and criminal causes to our president and justices who reside in the said city, and that you and your officers shall be obliged to grant the said appeals in such cases as it shall be proper according to law, but in civil causes as regards a sentence or dismissal thereof when the amount involved should be less than forty thousand maravedcis it is our wish and command that the appeals made shall be brought before the justice and regidores of the town village, or place from which the said cause had emanated, and we command that you may use and that you use the said offices of our said governor and captain general of the said territories by yourself and by your said lieutenants who you may dismiss and remove whenever you shall deem it proper for our service and the execution of our justice and peace and tranquillity of the territory and to enforce the foregoing provisions by this our charter by which we grant full power by the same or by its communication signed by the public scribe, and we command the councils justice and regidores, knights, squires, officials, and good men of all the towns, villages, and places of the said territories and any other places and persons of any estate and condition whatsoever, who are or may be in the said territories or that may go to them, that they shall have you for our governor and captain general and allow you and consent that you use the said offices and execute our justice by yourself and by your lieutenants but not by any other person or persons, and as such governor of ours you may hear, decide, and determine, and you shall hear, decide, and determine, all suits and actions, whether civil or criminal, which have been commenced in the said territories and Provinces or which shall be commenced therein, and you shall have yourself and your said

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lieutenants the rights and other things appertaining and belonging to the said officers of our governor and captain general, and you may issue such ordinances general in all your government district, and particular in each town, as shall be useful and profitable to the said territories and inhabitants thereon and by which the inhabitants of the said territories shall be governed so that they may live as good Christians in complete peace and tranquillity, avoiding the bad habits and vices which the other people where they are commonly have, and to appoint such persons as you shall deem advisable to enforce them and execute them in the said places if they should be violated, and that you and your said lieutenants may and shall make any inquiries in the cases of law premises and all other things appurtenant and concerning the said office of which you and they shall take cognizance all those which appertain to our service and the execution of our justice, and that in order to use and exercise the said office of our governor and captain general and enforce and execute our justice all shall conform with you, the said don Pedro de Alvarado, and with your said lieutenants, and that as such they shall respect and obey you and no other person, and we command the said councils and all other persons and captains and peoples of any quality and condition or who may go thereto to do so without any excuse or delay and without appeal or supplication, under the penalties that you shall impose or cause to be imposed in our name upon them, which penalties by these presents impose and take as imposed, and we give you power and authority to execute them upon those who are rebels and disobedient, and that they give you and cause to give you all such favor and aid which you shall request and need, and that neither in this nor in any other thing whatsoever nor in any part thereof shall they oppose or consent that it shall be opposed to you any hindrance or contradiction because we by these presents receive you and take you as received into the said office and to the use and exercise thereof, and we give you power and authority to use it and exercise it with all its incidentals and dependencies, emergencies, annexes, and connections; and furthermore we command you that the penalties (fines) belonging to our chamber and exchequer whether found by you to be condemned in the said territory and Province of Guatemala or whether those condemned or imposed by you and your lieutenants shall be and caused to be executed by you and given and delivered to our treasurer in the said territory or to whomsoever shall have power from him to do so, and by this our chart we command any person or persons having or who may have the rods of our justice, alcaldia, or sheriffdom of the said territories and Provinces of Guatemala that as soon as you, the said Pedro de Alvarado, shall so require give them and deliver them to you and use them no more without our permission and special mandate under the penalties

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which are incurred by such private persons as make use of offices for which they have no power of authority that we by these presents suspend and take for suspended; and furthermore it is our grace and will that if you, the said Pedro de Alvarado, believe that it becomes our service and the execution of our justice that knights and other persons of those who are now or shall be in the future in the said territory shall leave it and shall not enter it or stay longer in it that they come to appear before us, that you may command them in our name and make them leave the said territory, and all those whom you shall command we do by these presents command that without any further requirement from you nor consultation nor waiting for any other second or third order or injunction from us and without any further appeal or supplication shall do so according to your saying and commands under the penalties that you shall on your part impose and cause to be imposed on them which by these presents we impose and take for imposed on them, and we give you power and authority to execute the said penalties upon those who are negligent and disobedient and upon their property, and it is our grace and we command that you shall have as salary and as aids for the cost of every year in the said office of our governor and captain general five hundred and sixty-two thousand and five hundred maravedies, which shall be paid to you from the rents and profits which shall belong to us in the said territory by our treasurer thereof for every third of a year, as the other salaries of our other officers of the said territories are paid, and that they shall take every year with which and with the sign communication of this our provision we command that the said five hundred and sixty-two thousand and five hundred maravedies be received and placed on account and which you shall enjoy and shall be given and paid to you from the day on which you shall sail from the harbor of Sanlucar on your journey and henceforth during all the time that you shall occupy and serve the said office, and our officers residing in the city of Seville at the house of the contratacion of Indies shall take notice of this charter and neither of them shall in any way compromise under penalty of losing our grace and ten thousand maravedies to be paid for our chamber by each of them who shall do otherwise. Given at Burgos this eighteenth day of the month of December in the year of the birth of our Lord Jesus Christ one thousand five hundred and twenty-seven, I, the King, I, Francisco de las Cobos, secretary to their Cesarian and Catholic Majesties, I caused it to be written by their mandate *fratis garci episcopus ojonalis*—Dr. Bethran Register, Joan De Samano, Martin de Urovina, by the chancellor—this provision of His Majesty was entered in the books of the house of the contratacion of Seville on the twenty-sixth day of the month of May, one thousand five hundred and ninety-seven, Joan de Aranda, Domingo de Oyandiano; therefore by virtue

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of the said provision, which is, of course, incorporated, I, the said adelantado don Pedro de Alvarado, grant full, complete, free, and absolute power in the best manner and form to you, Jorge de Alvarado, captain, who are absent, as well as if you were present, in order that you shall take by me and for me possession of the said Provinces by virtue of this power and provision, and after the said possession shall be taken I appoint you, the said Jorge de Alvarado, as my lieutenant to use and exercise the said office in all the places, territories, and Provinces aforementioned, so that in my own name and behalf you may use it and exercise it as I could by virtue of the said provision for such a time as I shall determine, and to collect and carry all the duties and salaries and other things attached and owing and appertaining to the said office, and by these presents I request and require all the justices of the said territory and councils thereof to receive you to the said office and to adjust you to the use and exercise thereof as if I personally should use it and exercise it, for which, as already said, I give you full and complete power with all its incidentals and dependencies, emergencies, annexes, and connections, and in order to thus have, keep, and fulfill, and affirm, I firmly bind my person and property and grant this power of attorney before a public scribe and the undersigned witnesses, which was made and granted at the City of Mexico in the houses of Jorge de Alvarado, and I signed it with my name before the witnesses, Accountant Corrilla and Baltasar de Mendoca, who are in this said city—the adelantado, Pedro de Alvarado—and I, Joan Galvarro, public scribe and notary of their Majesties in all their Kingdoms and seigniories, I was present in one with the witnesses, and therefore I made herewith my sign in testimony of truth.

JOAN GALVARRO, *Scribe.*

This provision and power herein contained was presented by the very noble Señor Jorge de Alvarado and captain general in these Provinces of Guatemala and the others in the said provision contained by the very magnificent senor, the adelantado, and governor, Don Pedro de Alvarado, by His Majesty, in the city council of this city of Sanctiago before me, Anton de Morales, scribe thereof, and it was obeyed and the said senior lieutenant governor was received and admitted to the office according to the provisions thereof on the ninth day of May, one thousand five hundred and twenty-nine.

ANTON DE MORALES, *Scribe.*

This copy was taken from a testimony which was presented in the action brought before this royal audiencia by Joan Domingues, treasurer of the convent of San Francisco of this city, against the alcaldes and regidores of the said city over certain walls which he said had been torn down on certain lands and pasture grounds on

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which there were grazing the oxen and horses which were used in the work and building of the said convent to which I refer, and which testimony seems to be signed by a signature which reads: Joan de Gavara, scribe of His Majesty, and I took out this copy by orders of Dr. Francisco de Sande, president of the royal audiencia which is located in this city, and governor general in its district in the said city, this twenty-eight day of the month of March, one thousand five hundred and ninety-six. Witnesses to the reading and comparison, Joan Garcia, scribe, and Pedro Bartolome, inhabitants of this city.

FRANCISCO DEESCOBAR.

Interlined, "of leon."

The above is a true copy of the original existing in this archive, file 63—6—10.

THE SUPERINTENDENT OF THE ARCHIVE.
PEDRO TORRES LANZAS.
(Flourish.)

(Seal—1 stamp—10th class—2 pesetas.)

SEVILLE, *December 9, 1905.*

Don Martin de Rosales y Martel, under secretary of the ministry of public instruction and fine arts. This is to certify that the above signature and flourish of the superintendent of the archives of Indies, Don Pedro Torres Lanzas, are apparently made in his own handwriting; the seal placed in the side of the said signature is also apparently the one which is used by the said establishment, for which reason they must be considered as legitimate.

[SEAL.] MARTIN DE ROSALES.

MADRID, *December 19, 1905.*

ESTADO. 8TH CLASS. 2 PESETAS.

(Upper part to be delivered to the party in interest.)

Reimbursement corresponding to the legalized copy of the "communication of the title of governor of Guatemala with the territory of Yucatan, granted in 1527 to D. Pedro de Alvarado," issued to his excellency, Senor D. Jose de la Carrera, minister of Guatemala.

THE SUPERINTENDENT OF THE ARCHIVES,
[SEAL.] P. TORRES.
(Flourish.)

63—6—10.

SEVILLE, *December 9, 1905.*

Vicente Santamaria de Paredes, Minister of Public Instruction and Fine Arts.

This is to certify that the above signatures and flourish of the under secretary of this ministry, Senor Don Martin de Rosales y Martel, and the seal placed beside the same, must be reputed as

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genuine, because the said signature is apparently made in his handwriting and because the said seal is the one used by the office of the under secretary of this ministry.

MADRID, *December 19, 1905.*

V. SANTAMARIA.
(Flourish.)

[SEAL AND STAMP.]

The undersigned Minister Plenipotentiary of Spain. This is to certify the authenticity of the above signature of his excellency, Señor Vicente Santamaria, Minister of Public Instruction.

J. CARRERA.

[SEAL.]

MADRID, *December 20, 1905.*

Viséd by this Secretary of Foreign Relations to legalize the signature of Don J. Carrera, minister in Madrid, Spain.

GUATEMALA, *January 26, 1906.*

JUAN (unintelligible).
(Flourish.)

[SEAL.]

DOCUMENT "B." SEVILLE, DECEMBER 2, 1917. NUMBER OF L. B. 3230. YEAR 1537. NO. 30.

Letter of the adelantado Francisco de Montojo to His Majesty: In the first paragraph he complains of Licenciado Maldonado, justice of Guatemala, who meddles in his governmental district pretending that the city of Gracias a Dios shall be incorporated to that of Guatemala, and as regards the Southern Sea (Mar del Sur) the city of San Miguel, all the River Lempa belonging to the governmental district of Honduras. He prays that Your Majesty do not grant the said petition, as it is within its boundary. Dated at Naco, Province Higueras, July 28, 1537.

GENERAL ARCHIVES OF INDIES. SEVILLE. SHELF 63, BOX 6, FILE 9.

Letter of the adelantado, Francisco de Montojo, to His Majesty: In the first paragraph he complains of Licenciado Maldonado, justice of Guatemala, who meddles in his governmental district pretending that the city of Gracias a Dios shall be incorporated to that of Guatemala, and as regards the Southern Sea (Mar del Sur) the city of San Miguel, all the River Lempa belonging to the governmental district of Honduras. He prays that Your Majesty do not grant the said petition as it is within its boundary. Dated at Naco, Province of Higueras, July 28, 1537.

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H. C. C., Mgt.

From the village of San Pedro, of Puerto de Cavallos, I rendered an account of Your Majesty, as you may have ordered, to be verified, and afterwards by the last and brief letter which I wrote to Your Majesty by the end of May of this year regarding what it was necessary to communicate to Your Majesty, besides the account aforesaid, *what now is to be communicated to Your Majesty is that Licenciado Maldonado, governor of Guatemala, has come to meddle within the boundaries of this governmental district close to the city of Gracias a Dios, situated 14 leagues therefrom, which is in the best which she has both to support itself and to pacify all the territory and 43 leagues from the city of Guatemala*, and that he can be of no service there, the licenciado wrote me that he came upon the urgent request of the inhabitants of Guatemala, and that after arriving in those towns which he has seen that he knew the reason there was for those towns to serve this governmental district of Higueras, and that he would give an account of it to Your Majesty and to the viceroy of New Spain, which I do not know whether he *has done it and that in the meantime he would request me to leave those towns to Guatemala. I answered what I knew that the said towns were distributed here and that don Pedro de Alvarado distributed them when he came to the help of this governmental district, since as a man he knew well the truth and that they were under his governmental district, and that all the others from the River Lempa on this side belonged to this governmental district which is subject to the governmental district of Guatemala, because the adelantado don Pedro de Alvarado wanted to take them from it because they were in the possession of his relatives and friends and that they might keep them until Your Majesty should provide what might be deemed more proper, and after this my brother, Juan de Montojo*, went to the village of San Salvador to see the licenciado. I do not know what they agreed upon; when he comes I shall communicate it to Your Majesty, but I want to remind Your Majesty as you may have seen by my accounts that all the territory on the River Lempa to the east with the village of San Miguel belongs to the governmental district, as it appears from the provision which Your Majesty ordered to be given on request of the said governmental district of Guatemala, I pray Your Majesty to please grant to this governmental district that it shall not be deprived of that which belongs to it and has been given to it just as the Government of Guatemala has them marked out; that I must not consent that they meddle any more in what I have said, and Your Majesty shall provide such a remedy as Your Majesty shall see fit.

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Praised be the Lord, almost all this governmental district is peaceful and tranquil and serves because since I arrived in this country I have brought many people in order to pacify it everywhere, and God has permitted such pacification without the loss in the war of fifty Indians and without the apprehension of one hundred slaves during its entire length. I trust in God our Lord that after this winter is over and the dry season comes I shall go to populate the village which I have mentioned to Your Majesty, which is in the best part of the country, because almost all of it is in peace and I have there a captain, with a number of people, who is making the natives plant so that there shall be no want when the population arrives and so that we shall not go through the same experience as heretofore since the people are about to leave this land on account of the famine although there are not many Indians. What shall become of this town situated as it is between Puerto de Cavallos, the Northern Sea (Mar del Norte) and that of Fonseca on the Southern Sea (Mar del Sur), and when there are from one to the other port about fifty-five leagues and with a road which with very little labor and with the aid and help which we pray Your Majesty to grant us of twenty negros for the roads will be put as well as the others in condition for use by droves of beasts of burden which is the most important thing for the maintenance, support, and welfare of this territory. I pray Your Majesty that if the above has not been provided for to order that it shall be so provided. There have been so much famine and so many other disadvantages and hardships after I arrived in this country that we have been placed in such conditions that the greatest portion of the people has left me, and this has been due to the fact that the Indians, thinking to put us out of the country as they did to the others, did not plant anything and placed us in such a critical situation of need, both to themselves and to us that it is already five months that they are living on roots, and upon all those fields which had been planted came the locust which has not left a single kernel of corn in any part stricken by it which has been almost all over the land. It is three years that these locusts visit us and this year more than all others they have left no green grass or green tree in all the fields.

And since this country is so hard and is sustained with so many hardships and the people are so much worked up and sunk in debt I pray Your Majesty to please order that help be extended through the mercies which I have prayed for in their behalf, namely, that you order that they be given the tithes of gold from the mines as it has been done in other governmental districts where no such hardships as here have been endured for and during the time that Your Majesty shall please.

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And also for the same causes I pray Your Majesty to please grant them the tithes of *almojarifuzge* (ancient duty on imposts and exports) for and during the time that Your Majesty shall please; because since they have seen that it imposes duties on those of the islands which have already paid them, no vessels wish now to come and the country is suffering from a great lack of both provisions and mining and farming tools and implements.

I have mentioned to Your Majesty the great scarcity of provisions for those engaged in the pacification of the country, because there were no fowls there as in other places on the request of all in order that they should not leave the country. I gave them permission to bind women above the age of fifteen for a term of six months and before four had elapsed I ordered that it should be done only in the manner and form which has been directed by Your Majesty and during all this time not even twenty women of the above age were taken and in all those cases in which they were (torn) taken in all the governmental districts after I arrived here there have not been one hundred pieces and two-thirds of these before and after the binding they managed to escape. I pray Your Majesty to authorize as good and proper the said time limit, which, owing to the great necessity of the moment, was extended because it is no more than what I have said to Your Majesty.

The mines are going, as I notified Your Majesty, at the rate of four and six reales as a rule per Indian, without the ventures which reach a higher amount. I am told by the miners that the gold which has been so far mined amounts to fifty thousand pesos in gold and from the top I do not know how much will be there by the melting time, which will be for Christmas.

Until now, owing to the general want prevailing in the country, all the gold has been mined by gangs from Guatemala to the detriment of this country and its inhabitants and of Your Majesty's service therein and the coming of vessels here with supplies, and it has reached the point that the gold which has been discovered by some of the inhabitants of this governmental district who are three or four who take turns with the fifteen of the twenty tools for the mining of gold they have come to meddle with them and follow them mining the gold which they have discovered, and as they are many and bring many slaves with them they do not allow them to mine anything and they have taken to this style and none of them wishes to go prospecting for gold to any other place but to follow them (torn) which they should discover so that they bring no other benefit to the country than to seek the gold which they have sought and discovered with great efforts and abstain from doing it themselves, and the worst is that they are taking the flower of the rivers

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and brooks in order not to undertake any real work and they do not wish to look for beds and ore deposits which is really what swells the purses, but they follow them here and obtain that salary and perquisite to the detriment of Your Majesty and damage to the land and inhabitants thereof, and the people despairs of this that they should be pacifying the country and those from Guatemala should take the fruits of their labor. I intend to put an end to this, fixing a jurisdiction where they shall mine for gold, which is the best thing to do, and nearer to Guatemala than the gold already discovered, because they should discover gold around that part, as there is plenty to discover, and should leave the rest for the inhabitants of this governmental district.

On account of the great diligence exercised by me to prevent the destruction of the towns by the war no more slaves have been taken than those already mentioned and those already taken have been given for pigs to be eaten during the war so that no slave has been left to any conqueror and no man has any in all the country. - If Your Majesty does not please to order some favor to them so that the inhabitants may take advantage of it and have something to mine the gold with, since in this country there is no other source of wealth than gold, and this can not be obtained without slaves for which what we all fear Your Majesty is that as regards the ransom some means be found in order that it may be paid because according to the orders of Your Majesty the Indians of this country are not of such an import that they may bring in their slaves to be bound up or to register them but in all other things the commands of Your Majesty must be enforced and this without allowing the Indians to bind them or to register them because this can not be done in any manner but justice must be very diligent that they be ransomed out of the taste and contentment of the Indians, provided that no one of them shall ransom in his own town and in this way the Indians shall be very pleased because they have a large slave traffic and they have no other and they bring them from other places where they are of no use. If Your Majesty grants this favor all the inhabitants would be remedied because the country is very rich in gold mines and Your Majesty would be well served and in no other way can it be maintained because it is no farming country. Your Majesty shall provide as you may please.

Regarding the town and village which I am going to populate I am informed that between this village which I have mentioned and the town of Trugillo, of Hondura, there are very large silver mines according to the story told by all those who have been there and Your Majesty will have seen by a sample of the fifth (duty of a 20 per centum) that the treasurer, Diego Garcia de Alis, took with him

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and although there are around there some war peoples I intend to go and see it myself as soon as I do what I have said of pacifying the war Indians which are to be found there as well as to get the silver which if it is only one-tenth part of what they say it must be the richest thing of all which have been discovered. Whatever it is, I shall see and will communicate it to Your Majesty.

I wish to apprise Your Majesty of one thing and that is that I have been informed that the treasurer, Diego Garcia de Alis, when he left here with don Pedro de Alvarado carried in his memory twenty Indian towns of this country in order that they should be given there to persons who would improve them, and these twenty towns which he carried in his memory are all the boundaries (regimientos) of the city of Gracias a Dios and from them could not be gathered fifty inhabitants because as I have told Your Majesty it is not very populated although it is very profitable and it is necessary, because its soil is hard and rough, to have the services of many people to maintain it because as they are mountain Indians and the soil is so hard it is acquired for very little, and by painful labor only can be pacified. I pray Your Majesty for such provision in the matter as it may seem to Your Majesty proper.

The overseer, Francisco de Barrentos, is dead and then I appointed Juan de Montojo, my brother, of the other office in the name of Your Majesty because it seemed to me that he was fit for it, both because of his person and because of the services rendered by him in these parts. I pray Your Majesty to please order that the said office be granted to him.

Many times I have communicated the many expenses which I have made in these parts for the benefit of Your Majesty and besides having spent all what I had and which is due to me in a great amount of pesos and which I owe in my turn to many persons who are pressing me for it and the little chance which I have to be able to pay them, and if Your Majesty does not grant me some favor for the purpose I pray Your Majesty to please grant me the favor which I have many times prayed for, namely, that I be granted in New Spain the favor of chilapa and tenancy which is the allotment (repartimiento) of a good man who was called Cristoval Flores with the few which I have together with the title which Your Majesty shall please as remuneration for my services and salaries of ten years since the settlement of Yucatan and the right which I have to the favors of Your Majesty and made to me therein and of VIII U pesos in gold which has been (torn) spent over sea and land to come to this governmental district of Higueras and Honduras with the

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people which I brought to it with whom it has been placed in the state which I have said and I shall be contented with all although it is so small as Your Majesty may be better informed and so that my children shall not be left to starve because their father has spent in the service of Your Majesty what he had and what he had not and also his life.

By other letters of mine I have given an account to Your Majesty which will be necessary for the conquest and pacification of this country of some war Indians of the Province of Guatemala, because this country has very rough ranges of mountains and since God our Lord has brought this other one to the estate which I have said there is no need for Your Majesty to cause any provision to be made and because in the other one there are already friendly Indians to pacify the rest and to punish some if they should raise up in arms *because it is well known that the Indians of Guatemala although they are very useful for war they are terrible for everything else because they destroy everything wherever they go as did those brought by Don Pedro de Alvarado when he came there and for this reason he subjugated all the territory to the River Ulua where he was stopped by three hundred Indians who held him at that river at that time and afterward I sent men to pacify it and so it is now.*

Since some Provinces of Yucatan have learned that I have come to this country certain principal persons have come in canoes to see me in order that I should quiet them as to their ransom and their business transactions which has not been done so far on account of the massacre of the Christians at Puerto de Cavallo who were there (they) and others from many parts I sent them away in order that they may come to make their business transactions to the River de Ulua because this was all the agreement which they had and it is a great advantage for this country and I order that they should call all the other Provinces of the neighborhood and I believe that they will do it may the Lord keep the life and imperial state of Your Majesty and enhance it with many more kingdoms and signories as it is desired by Your Majesty and by all your servants and vassals of this town of Naco of the Province of Higueras this XXVIII° of July of IU DXXXVII.

From U. S. S. C. Majesty humble vassal and servants who kiss the hands of Your Majesty.

THE ADELANTADO, FRANCISCO DE MONTEJO.

(Flourish.)

Amended—importation, us, which, wise, apprise, me; interline, par, h, torn, in, ills, valedictory.

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The above is a true copy of the original kept in this archive on shelf 63, box 6, file 9.

JUAN LAPTA Y DIAZ,
The Secretary.

Seville, December 11, 1917.
Countersigned:
THE SUPERINTENDENT,
P. TORRES LANZAS,
(Flourish.)
[Stamp and seal.]
CARLOS MEANY

ESTADO. 9TH CLASS, ONE PESETA.

(Upper part to be delivered to the party in interest. A 1. 469.787*)

[Seal and Stamp.]
This belongs to sheet No. A 1.050453.

JUAN LAPTA Y DIEZ,
The Secretary.

ESTADO. 8TH CLASS, 2 PESETAS.

(Upper part to be delivered to the party in interest. A 2.050.453.*)

Reimbursement belonging to the legalized copy of a letter of Licenciado Montejo (Francisco de) dated at Naco (Province of Higueras) July 28, 1537, issued to Don Carlos Meany, shelf 63, box 6, file 9.
[Seal and stamp.]

JUAN LAPTA Y DIEZ.

SEVILLE, *Dec. 11, 1917.*

DOCUMENT "C." GENERAL ARCHIVES OF INDIES. SEVILLE. AUDENCIA OF GUATEMALA.

Registry of official letters. Royal orders addressed to the authorities of the district. Years 1551 to 1759.

Royal decree to the bishop of Guatemala, ordering him to report on the disbursement made by the royal treasury for the maintenance of the infantry and signal watch *of the port of the gulf of the said Province* after requesting from royal officers of the said Province to submit the necessary particulars and facts relating to the matter. Madrid, May 23, 1675, 100–1–3, book 7, page 1.

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The Queen Governor.

Reverend in Christ, Father Bishop of the very illustrious cathedral of the city of Santiago, of the Province of Guatemala, of the Council of the King: My son, there have come information to the Council of Indies that from the last part of the year one thousand six hundred and sixty-nine until the last days of April, one thousand six hundred and seventy-four, there have been appropriated out of the royal treasury of that city by virtue of juntas generales de hacienda and of other dispatches of that audiencia and government for the port of Golfo of that Province payment and maintenance of the infantry and signal watches nine thousand one hundred and forty-one pesos and seven reales, provided that from the first effects to be had from the appropriation made for the purpose the said amount shall be returned and paid back to the said royal treasury, and which by reason of the fact that it cannot be covered by the said appropriation which is so short as to amount only to two thousand and sixty-eight pesos and six reales, and ten thousand pesos being necessary every year for the maintenance of the castle and salary of the signal watches in one of the juntas issued by you (while governing that audiencia), it was resolved and determined that out of the rents and vacas and which should vacate in those Provinces (which are under provision of the government thereof) should be paid the balance for the maintenance of the castle, and that out of the appropriations made there should be reimbursed the payments made by the royal treasury, which has not been done so far, and that besides this there had been previously supplied both out of the royal treasury and from the barlovento duties large amounts of money, and although by repeated decrees they have been ordered to be reimbursed it has failed of effect for lack of satisfaction, and it having been considered by the said Council of Indias (in respect to the petitions of the attorney general) it has seemed proper to request you (as I do by these presents) that having heard the royal officials in that city as to what has really transpired in this matter you shall inform me as to the status thereof and also as to the rents which are said to be at the disposal of that Government and which is the quality thereof, what is their amount, and who the owners of the same, and how many there are there, and how many there are vacant, and this report you shall make with precision and clearness, and you shall send it at the first opportunity which may offer therefore to the undersigned secretary in order that in view thereof provision shall be made accordingly. Dated at Madrid on the twenty-third of May, one thousand six hundred and seventy-five. I, the Queen. By the mandate of His Majesty: Don Antonio de Rozas. Marked by the Council. (On the margin is written:) With duplicate, corrected.

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DOCUMENT "D."

Royal decree to the royal officials of Guatemala, approving with the qualification that it is for the "time being," the appropriation which out of the funds under their charge they made for the 600 pesos authorized by the president of the audiencia to attend to the supply of cake and meat for the Castle of the Golfo and ordering them to report the supplies and appropriations made for the said castle. Madrid, August 27, 1676, 100–1–3, book 7, page 120 over.

The King.

Officials of my royal treasury in the city of Santiago in the Provinces of Guatemala with one of the chapters of your letter of April the seventh of last year, one thousand six hundred and seventy-five, you are sending a testimony of the despatch issued by Don Fernando Francisco de Escoveda, president of my royal audencia of that city, in order that you should pay the provisioning of the Castle of the Golfo and the answers you made to him that his expenses should not be covered by my royal treasury by reason of the fact that the amount there situated for the purpose plus more than six thousand pesos was not enough to cover them, and that notwithstanding this fact he insisted on commanding you to cover them from my royal credit, and because these supplemental appropriations were made every year, you say that in a short time the incumbrance of the allowance will be too great and impossible to reimburse out of his effect and that in the fleet of the year six hundred and seventy-four you notified the amount supplied for this castle under condition that it should be returned, and upon consideration by my royal Council of Indies of the testimony sent by you, wherein it is stated that on February the thirteenth, one thousand six hundred and seventy-five, the said president ordered you to pay to Don Lorenço Marroquin de Mendoça, resident and alcalde of the holy brotherhood of that city, to whom was auctioned the supply of cake and meat to the infantry of the Presidio of the Golfo six hundred pesos of eight reales each which he asked for an account of the price of the cake for the transport thereof out of any maravedies which should be in your charge belonging to the appropriation for the purpose, and which notwithstanding the replies and injunctions made to him by you he again ordered you on the fifth of March following to comply with the decision, by virtue of which you paid the said six hundred pesos to Juan Delgado, a regular solicitor of the audiencia of that city, to whom the Don Lorenço Morroquin gave power and authority to collect, and for the payment of which he issued on the

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same day, March fifth, the proper legal receipt in your favor and upon due consideration of the request of the attorney general on the matter my council has seemed to approve (as I by these presents approve) for the time being the supplementary appropriation made by you of the said six hundred pesos of eight reales each for the supply of cake for the Castle of the Golfo by virtue of the order which for the purpose was given you by my said president, and I command you that on the next occasion which shall present itself you inform me with complete distinction and clarity as to what effects and appropriations this castle has, what is their yearly amount, and what amounts have been supplied and paid for the same by cash under your charge, and by what orders, and what amounts are due and owing to it and what appropriation and effects the said castle needs, for all its personnel, and which ones can be apply to it in order that it shall have everything necessary for the maintenance of the infantry, and all other things of which it shall be in absolute need and you shall send the report to my undersigned secretary in order that in view thereof the most advisable provision shall be made. Dated at Madrid this twenty-seventh day of August, one thousand six hundred and seventy-six. I the King. By the mandate of the King our lord: Don Antonio de Rozas. Marked by those of the Council. (On this is written:) With duplicate, corrected.

The above is a true copy of the originals kept in this General Archives of Indies.

Seville, February 22, 1909.

THE SUPERINTENDENT OF THE ARCHIVES,

[Stamps and seal.] PEDRO TORRES LANZAS,

(Flourish.)

[Stamp.]

8TH CLASS, 2 PESETAS.

(Upper part to be delivered to the party in interest.)

[Stamp.]

Reimbursement of legalized copy of royal decrees regarding expenses in the port of the Golfo and numeration of the townships of the said Province issued by this archive of Indies on request of the Council of Guatemala.

THE SUPERINTENDENT OF THE ARCHIVES,

P. TORRES.

(Flourish.)

[100–1–3. Seal.]

SEVILLE, *February 22, 1909.*

[Stamp.]

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8TH CLASS, 2 PESETAS.

(Upper part to be delivered to the party in interest.)

[Stamp.]

This belong to the sheet of C. 8th class, No. 66886.

(Flourish.)

[SEAL.]

DOCUMENT "E."

Seville, December 11, 1917. No. of L. R., 3232. Register, 1744. Years, 1677 and 1678. No. 29.

Letter of the bishop of Guatemala answering the decree of November 30, 1676, by which he was ordered to report on the annexation of the guardianship of Nacaome to the bishopric of Comayagua. He says that his predecessor ceded for the benefice of the Choluteca without the proper formalities and opposes the assignment to the two bishoprics the boundaries asked for by the bishop of Honduras. On the reverse of the said letter there is a report of the attorney general agreeing to the petition of the bishop of Guatemala on the proposition that Nacaome should not be annexed to Honduras and a resolution of the council ordering that no innovation be made of July 14, 1678.

GUATEMALA, *November 20, 1677.*

3232. 1677 and 1678. Guatemala. General Archives of Indies, Seville, shelf 65, box 1, file 7.

Letter of the bishop of Guatemala answering the decree of November 30, 1676, by which he was ordered to report on the annexation of the guardianship of Nacaome to the bishopric of Comayagua. He says that his predecessor ceded for the benefice of the Choluteca without the proper formalities and opposes the assignment to the two bishoprics the boundaries asked for by the bishop of Honduras. On the reverse of the said letter there is a report of the attorney general agreeing to the petition of the bishop of Guatemala on the proposition that Nacaome should not be annexed to Honduras and a resolution of the council ordering that no innovation be made of July 14, 1678.

GUATEMALA, *November 20, 1677.*

SIR. The bishop of Guatemala, enforcing the mandate of Your Majesty contained in the royal decree of November 30, 1676, commanding him to report regarding the letter of the bishop of Honduras of July 28, 1675, asking that the guardianship of Nacaome be annexed to his bishopric, and that a division be made by the River of Lempa, makes it in this letter, expressing his opinion and adhering to that of Your Majesty.

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Your Majesty (whom may God keep) by his royal decree of the 30th of November of last year, 1676, which I received in August of the present year, has pleased to ask me to report on the letter of the bishop of Honduras of July 28, 1676, in which he says that in the canals of Xerez of the Chuluteca there is the guardianship of Nacaome, of Franciscan monks, and that it would be advisable to annex it to that jurisdiction and bishopric, fixing as boundaries of the latter and as divison of the former the River Lempa; and for the reason that on account of the distance we, the bishops, could not go from this city to visit it.

Sir, we, the bishops, by not contenting ourselves with the jurisdiction of our dioceses and by wishing to extend them, to the detriment of others, we shall serve neither God nor Your Majesty, and these intentions will only result in unrest, lawsuits, and neglect of the main things.

The bishop, my predecessor, left to that bishopric more than one thousand dollars worth of tithes, every year in the district which he annexed in the Chuluteca, and if Your Majesty should not have expressed your will in what was done by my predecessor there is no doubt that by reason of the dignity vested in me (although without merits) I could not approve what my predecessor did because he could not grant or renounce that which was not his with the same liberality as if it had belonged to him, and as if he could do it service whenever it should be necessary to dismember that or any other portion of this bishopric it seems, sire, that speaking with all the veneration which I owe to Your Majesty, there should be grave causes and be stated juridically and in the form prescribed by law and be proposed to Your Majesty in order that in view of the reasons stated and the proposal being adjudged advisable and the causes adduced considered sufficient, Your Majesty should refer them to His Holiness to whom I believe and it seems to me according to the slight knowledge which I have of law belongs the prerogative of dividing, disjoining and dismembering a portion of a bishopric for another; or to erect a new one or to annex to another to which it shall be more convenient any portion of that bishopric which is dismembered and I presume that this is taken into consideration when the bishopric of Durango was constituted, according to this and always as a party in interest the cavildo must be summoned and heard in respect to that which was done by my predecessor. I have not learned anything to the effect that anything of the foregoing should have intervened which I am sorry to say must intervene; and only the very superior and wise opinion of the counsel of Your Majesty could make me suspend the opinion which I had and could form that the doings of my predecessor as regards the assignment of the Province of the Chuluteca to the bishopric of Honduras with-

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out taking previously into account the provisions of the pontifical will and order are and have been null; and if I should not have been at such a great distance from Your Majesty and Your Majesty's Council, I should have made this representation to Your Majesty as soon as I arrived and was informed of this, in order to obviate the very grave scruples which may arise in everybody's conscience if it should be discerned that the parish of the Chuluteca being placed by Your Majesty with the pontifical confirmation under the jurisdiction of the bishop of Goatemala. They have ministers who administer to them the Holy Sacraments without the bishop of Goatemala giving or having given jurisdiction to them and without intervening in behalf of His Holiness to have dismembered it from this bishopric. This, sire, is what has pulsated and is pulsating my conscience without thinking of the portion which by reason of tithes may belong to me; and as the Bishop Don Martin de Espinosa Monzon saw how easily the foregoing was done (and which I repeat I do not know how it could have been done in the manner aforesaid) with that beginning, little by little he wanted to take away this bishopric for the reasons by him propounded.

Sire, for the tranquillity of my conscience and for the security of that of Your Majesty so far as I am concerned and he who must intervene as regards jurisdiction in the administration of the sacrament and for the parish of the Chuluteca, I pray Your Majesty to cause the foregoing to be considered and since Your Majesty was pleased by what my predecessor did to order that the said Province should be annexed to the bishopric of Honduras, to procure now that His Holiness shall confirm the dismemberment which has been made of it and that the bishop of Goatemala shall absolve it of the bond which formerly joined it to her, and transferred to the bishop of Comayagua the power of jurisdiction and order which formerly was vested in the bishop of Goatemala, because with my meagre capacity, I believe that these things must be done and Your Majesty shall forgive me since my intention is no other than to explain reverently to Your Majesty my opinion as it is my duty and since I wish to have all the tranquillity which I may have in the discharge of the grave duties of my office which Your Majesty has been pleased to place upon my shoulders, and in response to the reasons propounded by the bishop of Honduras.

First the village of Xerez is at a distance of more than eighteen leagues of very bad roads and in the rainy season intransitable on account of the deep rivers from the guardianship of Nacaome and from the district of Goatheha of this my bishopric which is in the Province of San Miguel the said guardianship is much nearer because it is close to the above district and the said guardianship belongs to the Franciscan monks of this Province and has its towns very well

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managed and with ministers placed under this bishopric administering and very faithfully complying with their obligation, my predecessors having always taken care with great zeal that there should be no negligence; and the protection of the bishop of Comayagua had in view to impoverish more the short rents of all these bishoprics and its church which is such that since its erection only in this year and the preceding one the tithes have amounted in all to thirty thousand pesos the Episcopal fourth being, after deducting the costs which appertain to it, seven thousand pesos more or less, and out of this it paid near five hundred pesos for the building of the church and college seminary, more than three hundred of house rent and I support myself and I give as many alms as I can so far as the rent goes and the prebendaries which are eight with the dignitaries make the short amount which Your Majesty may consider, and out of it they pay another five hundred more or less, of alms for the said building and college and they pay house rent and support themselves with such small amount of money, and if besides having lost by the annexation of the Chuliteca more than one thousand dollars worth of rent every year in tithes there should be given now to the said bishopric the district of the said guardianship we should lose more than four hundred pesos which is the total amount of the tithes thereof, and we would become poorer and the bishop and cavildo of Comayagua would be accommodated with that which belongs to us.

As regards the proposition of distance for the visit, I say, sire, that Guatemala is in the center of the bishopric and although the Province of San Miguel, which is the most distant, is far away from this city, at the utmost one hundred leagues, and there is there the beneficiary of the district of Gotera and immediate to it is the said guardianship, and one hundred leagues here is like walking twenty or thirty in Spain, not because the distance should not be more, but because to depart for the said guardianship is as if in the Kingdom a person should absent himself at a distance of thirty leagues and if this reason should be attended to in making the division by the River Lempa, as was claimed by the bishop of Honduras, it seems, sire, that it should not be considered since all the bishops, my predecessors, and the immediate one who ceded the Chuluteca, have visited and seen not only the Province and guardianship of Nacaome, but also the said Chuluteca itself, and there is no memory of their failing to visit it and I am not so feeble and short of strength that I should not hope to visit it very soon, and I would have visited it already if the many occupations and things which I had to attend to in this my bishopric would have allowed me the time to do so and if, as was claimed by the bishop of Honduras, the division should be made by the River Lempa, this bishopric would be so far prejudiced

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that the rent of the episcopal fourth would not reach three thousand five hundred pesos.

Sire, the above is the truth of the facts. It is just that every one of us shall keep still in our houses if we wish to take away and join to them that which does not belong to us. However, I will humbly accept what Your Majesty shall dispose and I would live very contented in any benefice of that Kingdom and with much more pleasure than in the greatest dignities of the Indies. May our Lord keep the catholic and royal person of Your Majesty as he may and as Christianity needs. Goatemala, November 20, 1677.

Sire, I kiss the hand of Your Majesty, your servant and chaplain,

JUAN, *Bishop of Goatemala.*

(On the cover the following is written:) Guatemala. To His Majesty. 1677. Received June 7, 1678. The Bishop, November 20. Council. On June 18, 1678, let it be put together with the cause thereof and taken to the Attorney General. (Flourish.) Copy of the dispatch is brought, which satisfies the Bishop. Reports as he was ordered by decree of November 30, 1676, on the letter of the bishop of Honduras in respect to the annexation of his bishopric of the guardianship of Nicaome and that the division be made by the River Lempa; and he gives his opinion on this cause.

The Attorney General, in view of the reports made by the bishop of Guatemala, says that the reasons which he presents against the annexation pretended by the bishop of Honduras to his bishopric of the guardianship of Franciscan monks called Nacaome, which is situated in the canals of Xerez of the Chuluteca, seemed to him sufficient and satisfies the inconveniences which were represented by the said bishop of Honduras, and so there is no cause for making the said annexation, and so the said guardianship must be preserved within the bishopric of Guatemala, as it has always been, instructing the bishop of the said city of Guatemala to make the visit thereto as offered by him in his report, and that he does this as soon as possible, and as regards the addition which he says was made during the incumbency of his predecessor to the said bishopric of Honduras of more than one thousand pesos of tithes per year in the district which was made in the Chuluteca although some objections are made in the said report with the intervention of the counsel it must have been legitimately and with the necessary requisites.

MADRID, *June 11, 1678.*

COUNSEL, *July 14, 1678.*

(Flourish.)

That no innovation be made and that the bishop of Guatemala be requested to visit and charged with visiting this guardianship and report.

(Flourish.)

Date.

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Amended guardianship—interlined n, and it is pulsating, procure s, valedictory.

The above is a true copy of the original, filed in this archive, shelf 66, box 1, file 7.

[Stamp and seal.] JUAN LAPTA Y DIEZ,
The Secretary.
(Flourish.)

Countersigned:

P. LOUIS LANZAS,
The Superintendent.
(Flourish.)
CARLOS MEANY.
(Flourish.)

SEVILLE, *December 11, 1917.*

ESTADO. 8TH CLASS, 2 PESETAS.

(Upper part to be delivered to the party in interest. A 2.050.458*.)

Reimbursement corresponding to a legalized copy; letter of the bishop of Guatemala answering the decree of November 30, 1676, etc., for Don Carlos Meany, shelf 65, box, 1, file 7.

[Seal and stamp.] JUAN LAPTA Y DIEZ,
The Secretary.
(Flourish.)

SEVILLE, *December 11, 1917.*

DOCUMENT F. AUDIENCIA OF GUATEMALA. ECCLESIASTICAL.

Record of the general visit of the said diocesis by the Archbishop D. Pedro Cortes, years 1770 to 1778. Shelf 103, box 1, file 14.

Description and map of the Parish of Jocotan.

[The reproduction of the map of Jocotan is deemed unnecessary.]

Parish of Jocotan.

"From the town of Esquipulas to the town of Jocotan there are thirteen leagues in a direction from between west and south to between north and east. All the road is up violent hills, with several fences on account of the swamps, with some puddles, boulders, and stones, and with a descent so steep that it was necessary to walk some of it on foot; there are some brooks and corn fields even on the highest points of the mountain, which is the same one of Esquipulas on the northern slope coming down as it was to going up to Esquipulas on the southern slopes.

Four long leagues from here down in the deep valley is the town of Quesaltepeque, far better than that of Esquipulas; on a plain,

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although surrounded by mountains, but with many sugar mills and sugar cane fields, so that it seems to be a very delicious country. It is a town of many people, and as it appears above it is almost as large again as the town of Esquipulas.

Four leagues beyond is the town of Santa Elena, belonging to the curacy of Chiquimula. It is also a very bad road, and two leagues hence, after a steep descent, we come to a ford over the Rio Grande, which is certainly a large river, and on the banks thereof there are several settlements and the ground is quite level and very luxuriant, and there are several sugar cane fields; this river is forded (in less than a league) three or four times. At about a league from Santa Elena one leaves to the right very near the town of San Jacinto, which is annexed to Esquipulas; the said town is quite spread out and stands near the river, which runs in the same direction of the road, and it has several sugar mills.

The town of Santa Elena is also situated on the banks of the river; it is a small town but very fertile if it should have enough people in it to cultivate its soils, because it would then yield all sorts of produce and fruits, but this is just what they do not want; they are contented to live with freedom in the settlements. Up to this point all are mountains, peaks, and valleys of the mountain of Esquipula, and it goes still further.

The other five leagues up to Jocotan, all also of bad roads, with close mountains, boulders, and brooks, on the beds of which we had to walk at times. At the end of the first league there is a very luxuriant valley with a good many Indian huts belonging to Quesaltepeque; farther inland toward the south there is another which belongs to Jocotan. On the summit of the mountains there is an Indian hut, and one or two more at the outside entrance which can only serve as a shelter for thieves.

At about three leagues one comes to the town called San Juan the Hermit, annexed to Jocotan; it is in a valley with plenty of water, very fertile, and enclosed between two quite high mountains, and there are quite a number of Indians' huts all scattered around on the slopes of the mountains; there are also many corn fields, sugar cane, beans, vegetables, and it follows like that up to Jocotan, as we shall see later on.

The town of Jocotan is situated on a plain, but it is surrounded by mountains, making a valley toward San Juan the Hermit; another toward Comotan; other ones to other points; so that these three towns have their Indian huts quite contiguous to one another, since those of one town border on those of the others, and thus the ones of San Juan the Hermit, having few inhabitants, occupy at least from east to west about two leagues and more or less the same from north to south, because they are not towns united but a scatter-

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ing of Indian huts which each one puts up anywhere he pleases, and thus are almost all of the towns or a good many of them.

All this territory is very fertile, and even although it is badly cultivated it produces wheat, corn, beans, vegetables, fruits, sugar cane, tobacco, coco beans, and has plenty of water, as through every valley there runs a brook, and even on the tops of the mountains all this produce and fruits are obtained.

The seat of the parish is the town of Jocotan, with two annexed ones. The first is Comotan, the second is San Juan the Hermit. It also has two valleys. The first is the valley of Copan, the second is the valley of Xanco. It has also some iron works called Quarachique. The situations and distances of which appear on the following map and table:

	Leagues.
1. Town of Jocotan (seat).	
2. Town of Comotan	1½
3. Town of San Juan the Hermit	2
4. Valley of Copan	12
5. Valley of Xanco	4
6. Works of Guarapiche	1

The above is a true copy of the original filed in the archives. 103–1–14.

The Superintendent of the Archives.
Per JOSE GONZALEZ VERGER.

[Seal and stamp.]

SEVILLE, *November 6, 1905.*

Don Martin de Rosales y Martel, undersecretary of the Ministry of Public Instruction and Fine Arts, certifies that the signature and flourish of the superintendent of 4th grade of the facultatiœ corps of archivists, librarians and archeologists, Don Jose Gonzalez Verger, who signs the above certification under the title "Superintendent of the Archive P. O. are apparently legitimate, and the seal of the archive of Indies set also at the foot of the said certificate is also apparently the one used by the said establishment, and the said certificate must therefore be reputed as authentic.

MARTIN DE ROSALES,
The Undersecretary.
(Flourish.)

[SEAL.]

MADRID, *November 13, 1905.*

Don Manuel de Aguilar Llaguns, Minister of Public Instruction and Fine Arts, certifies that the preceding signature and flourish of the undersecretary of this ministry Iltrmo Señor Don Martin de Rosales y Martel, are apparently genuine; also that the seal of the under secretary's office which appears besides the said signature is the

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one used in all official documents of the said undersecretary's office, in proof thereof it is credited by these presents which will not be valid if they do not have the seal of this ministry.

AGUILAR.

[Seal and stamps.]

MADRID, *November 14, 1905.*

The undersigned, minister plenipotentiary of the Republic of Guatemala, in Spain, certifies the preceding signature of Señor D. Manuel de Aguilar, Minister of Public Instruction.

J. CARRERA.
(Flourish.)

[SEAL.]

MADRID, *November 19, 1905.*

Viséed by this office of the Secretary of Foreign Relations to authenticate the signature of Don J. Carrera, minister in Madrid, Spain.

JUAN BARRIOS
(Flourish.)

GUATEMALA, *January 9, 1906.*

ESTADO. 7TH CLASS, 5 PESETAS.

(Upper part to be delivered to the party in interest. 4 0 206110 *.)

(Stamp.)

Reimbursement of the legalized copy of the document entitled "Description and map of the parish of Jocotan," issued under this date to his excellency, Sr. D. Jose de la Carrera, Minister of Guatemala.

103–1–14.

Per JOSE GONZALEZ VERGER.

SEVILLE, *November 7, 1905.*

DOCUMENT "G."

This statement is a statistical exhibit of the Archbishopric of Nueva Guatemala for the year of 1784. Its importance in the present boundary controversy is due to the inclusion of Santiago Jocotan in the Archbishopric of Nueva Guatemala with the valleys of Copan and Sanco:

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Estado general del Arzobispado de la Nueva Guatemala de la Asunn. formado por el Y. S. D. Cayetano Francos y Monroy su Dgmo. Arzbpo. en el año de 1784.

Comprende todas las Canonicas y Pueblos de Visita con la distancia de estos á la Cabezera y de aquellas á la Capital.		Quadrantes.			Españoles.				Yndios.				Ladinos.			
		Yngreso del Cura.	Cargas.	Liquido.	Casados.	Solteros.	Viudos.	Niños.	Casados.	Solteros.	Viudos.	Niños.	Casados.	Solteros.	Viudos.	Niños.
		Vicaría de Zacapa.														
San Pedro Zacapa	35	2,582	1,240	1,341	346	276	72	380	330	284	42	221	202	178	51	316
Sta. Lucía	2								276	29	47	109				
San Pablo	3								300	48	44	328				
Gualan	9				30	22	7	44	260	65	35	343	70	23	10	96
Sma. Trinidad Chiquimula	50	2,139	873	1,266	78	80	27	111	1,008	401	200	623	164	82	56	277
San Estevan	1								106	15	13	74	24	17	7	44
Sta. Elena	2								190	37	28	115				
San José	3								154	43	32	130				
Sn. Crist. Acasahuasta	30	2,188	360	1,828	22	11		14	368	27	62	227	102	79	27	140
Chimálapa	2				62	63	9	81	102	11	5	46	144	124	23	224
Usumatan	4								88	27	14	71				
Santiago Esquipulas	50	3,275	2,116	1,159	48	31	14	36	216	73	49	117	366	146	25	219
Quesaltepeque	4				24	26	6	42	770	128	65	673	80	46	17	128
Sn. Jacinto	7				42	45	4	73	436	320	42	542	56	38	20	73
Santiago Jocotan	50	2,145	1,597	548	34	28	8	46	1,920	590	150	1,300	56	46	6	56
Sn. Juan Camotán	½								960	260	58	498				
Sn. Juan Hermita	2					2	1		244	101	21	161				
Valle de Copán y Sancó	4				58	26	3	97					18	20	7	27
Sn. Luis Xilotepeque	42	1,176	410	765	20	17	4	40	1,506	230	156	1,048	40	31	6	55
Sn. Yldefonso Yepala	3½								255	25	41	97				
Sumas totales		13,505	6,596	6,907	764	627	155	964	9,439	2,714	1,104	6,723	1,292	830	255	1,655

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Estado general del Arzobispado de la Nueva Guatemala de la Asun^n. formado por el Y. S. D. Cayetano Francos y Monroy su Dgmo. Arzbpo. en el año de 1784.

Comprende todas las Canonicas y Pueblos de Visita con la distancia de estos á la Cabezera y de aquellas á la Capital.	Confirmados.	Oratorios.	Confradias.			Hermandades principales.						Renta anual.	Gastos de Cera.	Fabrica.
			Cofradias.	De Yndios.	De Ladinos.	Hermandads.	De Yndios.	De Ladinos.	En Reses.	En Caballos y mulas.	En Pesos.			
						Vicaria de Zacapa.								
San Pedro Zacapa..... 35	2,025	5	10	6	4	7	.....	7	124	.....	5,483	5	227	.....
Sta. Lucia..... 2	.....	.....	3	3	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
San Pablo..... 3	.....	.....	1	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Gualan..... 9	.....	.....	2	2	.....	2	.....	2	32	.....	529	.....	.....	.....
Sma. Trinidad Chiquimula..... 50	.....	.....	13	10	3	11	1	10	155	9	2,549	166	298	.....
San Estevan..... 1	.....	.....	1	1	.....	2	2	.....	.....	.....	153	.....	20	.....
Sta. Elena..... 2	.....	.....	1	1	.....	2	2	.....	.....	.....	615	30	12	.....
San José..... 3	.....	.....	1	1	.....	2	2	.....	290	11	7	.....	28	.....
Sn. Crist. Acasahuast^n..... 30	603	2	12	7	5	.....	.....	.....	613	242	2,835	.....	123	.....
Chimálapa..... 2	.....	.....	1	1	.....	.....	.....	.....	20	22	.....	.....	6	.....
Usumatan..... 4	.....	.....	3	3	.....	.....	.....	.....	385	160	.....	.....	36	.....
Santiago Esquipulas..... 50	798	2	7	6	1	11	.....	11	432	73	3,194	241	94	.....
Quesaltepeque..... 4	.....	.....	7	7	.....	12	3	9	307	34	3,086	267	56	.....
Sn. Jacinto..... 7	.....	.....	2	2	.....	.....	.....	.....	168	18	40	.....	.....	.....
Santiago Jocotan..... 50	465	.....	7	7	.....	6	.....	6	.....	.....	3,086	73	.....	.....
Sn. Juan Camotán..... ½	.....	.....	6	6	.....	6	6	.....	846	10	641	.....	.....	.....
Sn. Juan Hermita..... 2	.....	.....	3	3	.....	.....	.....	.....	.....	.....	112	.....	.....	.....
Sn. Luis Xilotepeque..... 42	.....	.....	11	11	.....	2	2	.....	154	75	2,754	1,172	26	.....
Sn. Yeleíonso Yepala..... 3½	.....	.....	2	2	.....	2	2	.....	.....	.....	.....	.....	9	.....
Sumas totales.....	3,891	9	93	80	13	65	20	45	3,535	654	25,034	1,954	930	.....

Es copia fiel de su original de donde la hice sacar en cumplimiento del auto de S. S. Ytma. de veinte y dos del presente. Guatemala Agosto veinte y cinco de mil ochocientos cuarenta y siete.

ANTONIO LETONA, *Noto. Pubco.*

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DOCUMENT "H."

1745. Honduras. General Archives of the Indies, Seville, est. 65, box 3, file 1.

Title given to Don Juan Vera when he was appointed Governor of Honduras up to Cape Gracias a Dios.

MADRID, *August 23rd, 1745.*

Don Phelipe, by the grace of God King of Castille de Leon, of Aragon, of the two Sicilies, of Jerusalem, of Navarra, of Granada, of Toledo, of Valencia, of Cordova, of Corcega, of Murcia, of Jaen de los Algarves, of Algiers, of Gibraltar, of the Canary Islands, of the East and West Indies, of the islands and mainland of the ocean, Archduke of Austria, Duke of Burgundy, of Bravante and of Milan, Earl of Hapsburg, Flanders, Tyrol, and Barcelona, Lord of Biscay, and of Molina, etc. Whereas it is convenient to my service, and on account of the present war, to appoint a person in whom shall concur the circumstances of merit, military discipline and distinguished good behavior, to occupy the office of governor and commanding general of the Province of Honduras; and being statisfied that you, the colonel of infantry, Don Juan Vera, have proved to possess all these qualities by the services you have rendered in the offices you have held from the year 1714 in the regiment of my Guards of Spanish Infantry where you served until the year 1722, and where, having the rank of second lieutenant, I promoted you to the rank of lieutenant colonel, and afterwards gave you the government of the island of Margarita, where, as well as in the Province of Santa Marta, you have served with disinterestedness, zeal and good conduct, as shown by the report of the investigation of your conduct as such governor held after your term of office and brought to my notice by Don Sebastian Eslava, the viceroy of the New Kingdom of Granada, I have chosen and appointed, as I hereby choose and appoint you, governor and commanding general of the Province of Honduras, for you to serve as such as long as it may be my pleasure, with all the powers, jurisdiction, and authority as vested in all the other governors of that Province in accordance with the provisions contained in my laws, decrees, and orders; and deeming it convenient to my service that you should have the proper authorization for whatever might be necessary to do, I have resolved also to appoint you (as I do hereby appoint you) *commanding general of my armies of the aforesaid Province of Honduras and of all those comprised in the whole bishopric of Comayagua in the division and district of the alcaldia mayor of Tegucigalpa, and of all the territories and coasts from the point where the jurisdiction of the governor and captain general of the Province of Yucatan ends, up to Cape Gracias a Dios; and likewise I appoint you commanding general of all the*

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aforesaid Provinces and territories, for you to do whatever may be convenient, and to prevent illicit trade therein, for all of which, and to enable you also to call, summon, and convene all the warriors, and lead and command them and appoint corporals and officers, visit and repair the fortresses, construct new ones if they are necessary for the security of those coasts, pass judgment upon court-martial cases according to the ordinances, and to do whatever may seem convenient to you for the defense of those dominions, and to prevent and punish illicit trade therein, I confer upon you full power and give you the necessary jurisdiction. Therefore I command the present governor and commanding general of the Province of Honduras, the corporation, the chief justice, and the regiment of the city of Comayagua, and any other justices and judges who may afterwards be summoned by you under this my royal title, after having taken the oath you must take before the governor or the corporation of the city of Comayagua, to give and place you in possession of the government and general commandership of that Province; and likewise I command the governing officer of the Real de Minas of Tegucigalpa and all grand marshals, sergeants, majors, captains, lieutenants, second lieutenants, and privates, and the wardens and lords of the castles and fortresses of the aforesaid Provinces and Territories, to recognize you as such *commanding general of my armies therein*, and to obey you and execute unquestioningly and without contradiction of any kind all orders which you may give them, either in writing or verbally, and to bestow and cause to be bestowed upon you all the honors, preeminences, exemptions, and privileges which are due to you and must be given you as such commanding general of my armies, and to carry out what is necessary to prevent illicit trade. *And I give you full discretion on all military matters and in all other matters relative to the vigilance over and prevention of illicit trade or pertaining to any other jurisdiction, and to this effect I hereby repeal any laws, decrees, and orders which might provide anything to the contrary, said laws, orders, and decrees to remain in force as to all other matters; but I admonish you that in whatever pertains to civil, criminal, or administrative cases of the Province of Honduras and the city of Comayagua you shall introduce no changes, because the procedure in such matters shall be as heretofore, granting all appeals which should be interposed against the judgments which you or your deputies might render before the supreme court of Guatemala. And likewise I command you not to interfere with the political and civil government of the alcaldia mayor of Tegucigalpa, nor with any other gubernatorial district of the coast which should have a governor or governing officer, because the jurisdiction thereon must continue to be vested absolutely as heretofore in the governor or governing officer thereof.* And likewise I admonish you not to make, and you

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shall not make, any changes in the administration of my royal exchequer, since as to all matters pertaining thereto you must comply with the provisions contained in the laws. And I declare that while in this office you shall receive a yearly compensation of six thousand pesos, which shall include the salary which your predecessors have had heretofore and has been assigned to that office; and you shall be paid, by virtue of this my royal title and against your receipts, by the officials of my royal treasury in the city of Comayagua, said salary to run from the day you should prove to have arrived at the port of Havana. And likewise I declare that you shall not pay one single cent for the half annuity tax, because you are relieved therefrom; and this title shall be registered by the officials of my royal treasury in the house of the city of Comayagua, it being understood that, should they deem it convenient to do so, my Council of the Indies may issue any orders, instructions, or decrees which should be communicated to you by that city. Given at San Ildefonso this twenty-third day of August one thousand seven hundred and forty-five. I, the King. Don Cenon de Somodeville. Order appointing the colonel of infantry, Don Juan de Vera, governor and commanding general of the Province of Honduras and of the city of Comayagua, and for other things stated therein. Portfolio. Copy of the title of Governor of the Province of Honduras for Colonel Don Juan de Vera, issued by the country seat the 23rd day of August, 1745. Number 18. I certify that the above is a true copy of its original kept in the archives, shelf 65, drawer 3, file No. 1. Seville, November 26, 1917. The Secretary, Juan Lafita y Díaz. O. K. The chief, P. Torres Lanzas.

DOCUMENT "I."[1]

Royal Order January 2, 1747, issued by the Governor of Comayagua and Honduras, Don Juan de Vera, placing him for all military matters, under the orders of the Captain General of Guatemala.

The King.

Don Juan de Vera, colonel of my armies, governor of the Province of Honduras and of the city of Comayagua, and commanding general of the armies thereof, of the territory of the alcaldia mayor of Tegucigalpa, and of the other territories comprised between the point where the jurisdiction of the Governor of Yucatan ends and Cape Gracias a Dios. When the King, my lord and father (may God keep him in His glory) conferred upon you the title to these offices on August 23, 1745, he deemed it convenient to state therein, as well as in the instructions and the other papers issued to you for

[1] Reprint of Guatemala Annex, pp. 130–133.

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the better fulfillment of your mission, that as to all military matters and as to the vigilance over and prevention of illicit trade you were to exercise your full discretion and act independently from any other jurisdiction; and this resolution was notified to all persons concerned so that being advised thereof they should let you exercise freely all your powers, without hindering or opposing your orders, and cooperate with you in carrying them out according to the instructions given you therein. In doing so, His Majesty had kept in mind the fact that the President of Guatemala, being merely a man of letters, and all military operations being, therefore, foreign to his profession, my service would be seriously impaired were you to be subordinated to him as to these matters, just as you should be, as all your worthy predecessors were, in all those pertaining to civil, criminal and gubernative cases; because if such were the case there could be no facilities to provide and arrange for the plans and schemes to attack with opportunity the settlements of the enemies and to safeguard the coast regions of the Provinces which fall under your jurisdiction. And I, having now decided that the government of the Kingdom of Guatemala and the presidency of the supreme court seated at the city of Santiago should be in charge of a military officer, whose conduct, experience, and capacity should insure the restoration not only of the aforesaid supreme court—for which His Majesty (may God keep him in His glory) had already issued some decrees—but also for the restoration of the aforesaid Province of the whole of that Kingdom, so that the natives thereof shall experience the effects of my paternal love, and my royal treasury shall, at the same time, derive the necessary benefits in order to attend with less difficulties to their relief, having taken into consideration that all these qualities are to be found in the field marshal of my armies, Don Francisco Cagigal de la Vega, governor and war captain of the city and district of Santiago of Cuba, I have resolved to appoint him Governor and Captain General of the Provinces of the Kingdom of Guatemala and president of the supreme court seated at the city of Santiago, with as full and absolute jurisdiction, privileges, and exemptions as belong to him as such, without any exception or limitation. Therefore, I command you that as soon as you shall receive this my royal decree signed by my royal hand and countersigned by my undersigned Secretary of State and of the Universal Office of the Indies, to recognize and consider the said Don Francisco Cagigal de la Vega as such Governor and Captain General of the Provinces of the Kingdom of Guatemala, and as president of the supreme court of the city of Santiago, obeying him and respecting him, executing with absolute subordination and dependence whatever he might command in regard to

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my service, and to account to him for whatever you shall do in carrying out your missions, and reporting to him all the plans and ideas which you might have for carrying them out, and asking for his approval or judgment before putting them into practice (unless on account of the urgency of the undertaking it should be convenient not to wait for such approval) and to suggest to him also such measures which you might think necessary for him to apply on his part. And I advise you most particularly to act as to all these matters in the best harmony and accord, the consideration of the matters relating to my service and to the good of my subjects being paramount to all others. And you shall proceed as to all matters connected with the illicit trade with the same powers and jurisdiction as you have had heretofore as governor, by virtue of the laws and orders issued by the King my lord; and as to all royal, official and other matters, subordinated to and in cooperation with Cagigal, since such is my will. (On the back it reads:) Written to Heredia in the same terms.

1747. Royal order to Don Francisco Cagigal, Captain General elect of Guatemala. Whereby he is instructed as to how the Governors of Nicaragua and Honduras, Don Alonso Thomas Heredia and Don Juan Vera, are to be subordinated to him.

MADRID, *January 3.*

When the King appointed Brigadier Don Alonso de Heredia Governor of the Province of Nicaragua, and Colonel Don Juan de Vera Governor of Honduras, he, taking into consideration the fact that the Governor and Captain General of the Kingdom of Guatemala, being merely a man of letters, could hardly cooperate in matters pertaining to military operations, gave them absolute independence from said governor as to the two main points of preventing illicit trade along the whole coast to which he had extended the jurisdiction of each, and of annoying the English and their friends, the Zambo Mosquito Indians, in their settlements.

His Majesty, having now appointed your excellency to take charge of said Government with all the necessary ample powers, has had in mind the importance of having the two aforesaid officials act subordinately to your excellency not only as to the two main points of their mission, but as to all other matters related thereto, not only because that is due to your excellency's character and rank and to the very offices now conferred upon your excellency, but also because, besides being conducive to the harmony and best direction in the management thereof, your excellency's distinguished good behavior in matters pertaining to His Majesty's service, military expertness and experience, assure the performance of His Majesty's desires.

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His Majesty is also satisfied of the zeal and other qualities of Don Alonso de Heredia and Don Juan de Vera, which made them deserving of the memory of His Majesty (may God keep him in His glory) for offices of so much trust. And for this reason, and in order that in case it is convenient for the better and safer management of some of the matters entrusted to their care they may act alone without the limitation prescribed to them, which is a consequence of the absolute subordination to your excellency imposed on them, as your excellency will see by the enclosed royal decrees signed by the royal hand of His Majesty, which you will forward to each one of them respectively, His Majesty has ordered me to caution your excellency, confidentially, that in spite of the order by which they must report to your excellency whatever they should do, and to adjust their orders to those which your excellency should communicate to them, they should try as far as possible to make use of their authority and powers, so that, without failing to have the exact knowledge and notice of the matters on hand, plans and undertakings proposed and put into practice, these officials should understand the satisfaction and trust which His Majesty has in their conduct, so that they may be thereby more stimulated and shall apply themselves better to the fulfillment of their mission. And at the same time I have been directed to say, also, that their subordination to your excellency has no other purpose than the convenience of the service, and its condition that of being an indispensable requisite due to your excellency's rank and to the general command of a Kingdom which has jurisdiction over the Provinces of the command.

His Majesty confides in your prudence and trusts that your excellency will proceed in all these matters with proper wisdom and reflection, so as to avoid all inconvenience and to prevent the slightest impairment to the service. And His Majesty orders your excellency to report all your acts and whatever your excellency might consider worthy of bringing to the royal notice. May God preserve your excellency. Madrid, January 3, 1747. S. Don Francisco Cagigal de la Vega.

There is another order bearing the same date, commanding you to keep close watch on the acts of Don Alonso Tomas de Heredia and to get information with the greatest secrecy as to the manner in which he is carrying out the missions entrusted to him as governor of Nicaragua and to report on it through the same channel.

(By reason of the fact that this appointment never took effect, these orders, and others, were later transferred to the governor-elect, Don José de Araujo y Rio.)

Some news has been received about the conduct of Brigadier General don Alonso de Heredia, which does not conform with the

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opinion had of him by the reports received before he was appointed governor of the Province of Nicaragua. The King has ordered me to bring this fact to your excellency's knowledge so that your excellency shall keep close watch on the actions of this official, and shall cautiously adopt such secret measures as your excellency may deem most adequate to be informed of the manner in which he is carrying out the missions entrusted to him, and then to report in the same manner and through the same channel as soon as there is occasion to do so, endeavoring to get all this information from reliable, authorized, and Christian people. And I give your excellency notice hereof, for the faithful performance thereof, by order of His Majesty. May God, etc. Madrid, January 3, 1747. Señor don Francisco Cagigal.

The above are faithful copies of their respective originals kept in the archives of the Indies.

(Sgd.) PEDRO TORRES LANZAS,
The Chief of the Archives.

(Stamp of class 10 and 2 pesetas. Seal of the office.)
SEVILLE, *February 22, 1909.*

DOCUMENT "J."[1]

1806. Guatemala. General archive of Indies at Seville, shelf 100, box 4, file 8.

Letter Number 220 of the President of Guatemala to the Secretary of State and of the General Treasury Office. (Despacho Universal de Hacienda.)

It notifies the doubt which has arisen as to who must issue the title warrants to the lands to be parceled out in Truxillo, citing reasons and quotations of royal orders and praying that it may be declared that the said port and its colony must continue to be absolutely under the Province and independent of the treasurer (intendente) of Comayagua.

GUATEMALA, *February 3, 1803.*

THE PRESIDENT OF GUATEMALA,
November 22.

EXCELLENCY: In the enclosed proceedings it has been disputed between the attorney general (ministerio fiscal) and my ordinary legal adviser (asesor), *whether the title warrants to lands to be parceled out in the colonies of Truxillo in accordance with the rules and regulations drawn by me and approved in the superior board must be issued by this delegated superintendency, or by the treasury office (intendencia) of Comayagua.*

[1] Reprint of Guatemala Annex 3, pp. 118–126.

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The question is not of so little import as it would seem at first sight, *inasmuch as upon this question depends the further one of determining whether the port and colony of Truxillo must continue or not immediately under this command, as they have been since their establishment.*

The attorney general (ministerio fiscal) has appealed to article 81 of the ordinance of "intendentes," and to two royal decrees, which gave to the attorney general of Comayagua jurisdiction in the first instance over two cases of contraband and fraud committed in the aforesaid port.

My legal adviser has on the other hand based his opinions on different royal orders cited by him, all of which have been directly communicated to this Presidency, some before and others after the existence of a treasurer (intendente) in Comayagua.

For greater clarity I enclose herewith copies of the said royal orders, numbered 1 to 10. From all of them it is evident that the establishment of Trugillo, since His Majesty resolved to form it in 1783, and everything related to Mosquito coast, a town in which it was decided to place a custom house, police and government, it has been a single and only object exclusively in charge of this presidency.

The same opinion is corroborated by the representations, reports, and consultations which have been addressed by my predecessor to His Majesty concerning the affairs and occurrences in the said coast and its settlement, because besides that of Truxillo and Roatan there were those of Rio Tinto and Cape of Gracias a Dios, which were afterwards abandoned. A collection of these several documents would be too bulky, and in the present case it would offer a greater proof than that made out by the simple reading of the said royal orders. Suffice it to say that from the beginning all such things as have connection with the command in its different branches of justice, politics, treasury, and war, were dealt with as must necessarily be the case, and in none of them is mentioned the treasurer (intendente) of Comayagua except as a delegate of the presidency for the carrying out of some operations, which sometimes it was also the customs to entrust to some other official or decorated person.

Since the year 1790, by virtue of the royal order number 1, this command has been understood to belong to the ministry of war as regard all the affairs of the said settlements. The occurrences have been various and complicated. My predecessors have, as to all of them, provided as they saw fit and proper, notifying His Majesty of their doings; the royal resolutions have been notified to them, and they have been charged with their execution and fulfillment; all of which I could prove by enclosing herewith another portion of copies and testimonials if it should be deemed necessary.

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No treasurer (intendente) of Comayagua had ever attempted to interfere with the affairs of the Mosquito coast and settle them himself until the present, Colonel Don Ramón Angiano, who disputed to my immediate predecessor Don José Domas, the right to assume jurisdiction over the two aforesaid cases of contraband. And it is even to be noted that he only attempted to exercise jurisdiction in Trugillo over that class of cases, and that he had no further object in view than the settlement and government of the colony.

My said predecessor made on this point very bad use of his powers, as I have seen by the communications he had with the superior board and by the inquiries made by His Majesty. A thing which was purely a matter of fact was attempted to be defended by frivolous arguments, thereby consuming a great deal of time and paper, which gave rise to favors and animosities. The said royal orders, numbered 1 to 10, were not taken into consideration, whether because they could not be found in the confusion in which the archive of this secretaryship was, or whether because no one took pains in finding them. The result of this, in my estimation, was that the royal decisions in the two aforesaid cases were in favor of the treasurer (intendente) because of the general rule given in the ordinance of these justices, without considering the peculiar circumstance of the case and the different rule governing said matters.

The truth is that when I took command I found everything pertaining to the Mosquito coast in the greatest disorder; it being the only settlement in Trugillo which was being maintained at a stupenduous cost to the royal treasury, without having yielded the least profit, after immense sums of money had been invested therein.

Believing that one of my first duties was to stop all abuses in said coast, I endeavored at once to draw up the regulations for the sowing and apportionment of lands, which I reported to your excellency under No. 72. Then I undertook to make a reduction of the expenses; to arrange for the vouchers and to put a stop to the arbitrariness of the officials in that settlement who had been drawing against the treasury funds without regard to any just measure in the use of their subaltern powers; all of which I also reported under reserved index No. 32, the superior board having done so on the strength of my plan which it had approved. And it is to be noted that prior to this time, and in spite of the fact that these abuses were more manifest, the treasurer had not even taken the least step in regard thereto; and now that I have stirred this matter, he has calmly looked upon my proceedings without claiming that his powers in the premises are being usurped.

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The resolutions I am attending to demand the continuation of many others which I find myself compelled to issue each mail, clearing up impertinent or insiduous doubts, in order to carry out the strict system of wise economy which I have planned. But if the treasurer (intendente) of Comayagua should be granted jurisdiction and authority over these and similar matters, my plan would receive a deadly blow; the distance and the roundabout ways to Comayagua would cause the remedy for so many evils to arrive late when granted; or they would find a way to elude the wisest resolutions of the superior authority; outside of the fact that, in many cases, they would not know when to apply to the latter and when to the treasury.

If it is believed that the superior board meets these difficulties and the others which follow therefrom, in my opinion such belief is erroneous. The knowledge I have of these matters causes me to think in this manner. Ever since Trugillo was established said board has been in existence and those disorders had been left to continue for over fourteen years. Their cause could not fail to be known; but they did not apply any remedy thereto and if they thought of any, they were lost in the labyrinth of forensic proceedings and among accountants, prosecutors, relators, and clerks, before they were put to execution. A zealous and fairly enlightened chief understands that if he is given freedom of action he can do a good deal of good in any country; but this will never be attained with a collegiate tribunal whose members, collectively, have no immediate personal liability; who the more difficult the matters are which they are to ventilate, with the more repugnance and lack of interest they convene, and who, as soon as the session is over, they never give a thought to the question, nor are they any further concerned with its success or failure, because each of them individually considers that that is not to increase his merits for his promotion or to further the attainment of his aims.

Finally Truxillo is directly dependent from this general captaincy as to all military matters; which was never disputed. All, or almost all that happens there drifts to the military branch or is connected thereto. It would be monstrous to divide these matters, venturing the tactfulness of the revolutions, precisely at such a time when steps are being taken to place that colony on a stable footing to attain which it is so necessary to have a unity of action and command in everything that is to be done.

As regards the particular point of this matter, your excellency will please notice that the regulations in question having emanated from me it would be very unsuitable to have one judge take jurisdiction in the apportionment of lands and another in the issuing of titles thereto. The treasurer has not stirred this matter for his own inter-

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est, and I think that he would be very little interested in having it determined in his favor, because it would only increase his work. The only thing on which he has imposed his jurisdiction is as to the aforesaid matters of contraband, on account of the pecuniary interest which corresponds to the judge of first instance therein. Knowing that this was the basis for all his claims in the time of my predecessor, I left him from the beginning with full liberty to have and determine such matters. Whatsoever cases of this kind have happened, even if reported to me from Trugillo, I have sent them to his court; wherewith I have no knowledge that in my time they should have taken any new steps toward his jurisdiction not toward exercising any other jurisdictional authority over that colony.

In view of the foregoing statements I hope that your excellency, being convinced that I am not animated by any personal interest, but only by the wish for a better service, *will incline the mind of His Majesty to make the convenient declaration to the effect that I must continue to exercise jurisdiction over all matters relative to the Mosquito coast, the colony of Trugillo and its dependencies, with absolute exclusion of the treasurer* (*intendente*) *of Comayagua*, without prejudice to apply to him for information and for his opinion on such matters as may be necessary to have it, or as it may be most suitable to the wishes of the Sovereign. May God keep your excellency many years.

Most excellent sir,

ANTONIO GONZÁLEZ. (Flourish.)

To his excellency the Secretary of State and of the Universal Office of the Treasury.

GUATEMALA, *February 3, 1803.*

(At the head of the document is a marginal note. It reads as follows:)

It gives an account, with proofs, of the doubts which have arisen as to who should issue the title deeds to the lands apportioned in Trugillo. And for the various reasons given and the copies of the royal orders attached thereto he asks that that port and its colony be declared to continue to depend as to all matters directly from the presidency just as it has been from the beginning (as proved by said royal orders) with absolute exclusion of the treasurer of Comayagua.

[Duplicate.]

Royal orders, No. 1.

I have read to the King your excellency's letter number 382, dated April 17 last, and having considered the plan regarding Port Trujillo submitted therewith, His Majesty agrees with all your ex-

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cellency proposes. Therefore, it his royal wish that your excellency shall forthwith issue all possible necessary orders to fortify the port placing and maintaining therein the competent force to defend it from any attempt of the enemies; and that your excellency shall establish in the meantime a small town with the people of that Kingdom, while in order to complete the plan some families can be sent from Spain and the Canary Islands. I notify your excellency thereof, that said wish may be carried out. God keep your excellency many years. San Ildefonso, June 30, 1782. Galvez. To the President of Guatemala. By letter received from the viceroy of Mexico, Don Matias Galvez, the King has learned with great satisfaction that the English have left the coast and settlement of Rio Tinto and withdrawn, as it believed, to Cape Gracias de Dios. As a result of these news His Majesty has resolved that your excellency shall at once proceed to the work of reconstruction of the city of Trujillo, and to occupy the island of Roatan with a small detachment as proposed by that chief after he was conquered; said chief being advised on this date to assist your excellency in whatever may be needed to carry out your excellency's orders; it being understood that His Majesty reserves the right to appoint a governor or commandant for the port of Trujillo and Roatan who must depend directly from your excellency. God keep your excellency many years. Madrid, December 6, 1783. Galvez. To the President of Guatemala.

By order of the King, and under date of September 24, I have to advise your excellency, among other things, that His Majesty has resolved that four Spanish townships be established, all of them well provided for and defended, in Rio Tinto, Cape Gracias a Dios, Blewfields, and the mouth of San Juan River, and that it is the royal wish that your excellency shall begin the formation of these settlements with people of that Kingdom and under the convenient precautions, it being understood that in view of what your excellency may report and suggest in regard to this matter, some families shall be sent from the Peninsula or Canary Islands to increase and reinforce them. I now advise your excellency that His Majesty has resolved with the unanimous assent of the State board that for this purpose one hundred and fifty poor families of laborers and artisans from Galicia and Asturia and sixty from the Canary Islands be assembled and sent to your excellency within the briefest time possible; it being understood that it is His Majesty's intention that the aforesaid towns, in the island of Roatan, and the other places of the coast which it may be convenient for us to occupy, the families from that Kingdom and those originating from this, be united and mingled so as to help one another, and all of them engage in work with honest emulation. By royal order I notify it to your excellency that your excellency may be duly advised and act accordingly; it being

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understood that I shall advise the Chief of Otabana in the event that some of said families should stop at that place on account of not being able to go directly to any of the ports of that Kingdom. God keep your excellency many years. El Pardo, January 23, 1787. Sonora. To the President of Guatemala.

By the reserved correspondence of your excellency under date of July 15, and August 15, numbers 69 and 70, and by the copies attached thereto, the King has learned of the incidents which have lately occurred on the Mosquito Coast, and of that which took place in Blewfields between the Colonel Juan Nepomuceno de Quesada and the Englishman Robert Hodgson. In view of this, His Majesty has resolved that your excellency shall proceed cautiously in this matter until your excellency hears from the Archbishop Viceroy of Santa Fe (whom it is regular that your excellency should have written), about the authority Hodgson claims to have been given him by this prelate over said settlement and the coast which runs southward from it; and it is necessary that your excellency should act in accordance with him on the matter of establishing a detachment and town in the said Port of Blewfields, this being a measure which His Majesty believes to be extremely necessary. For this purpose I send him the aforesaid two letters of your excellency in order that, after reading them, he may suggest to your excellency the means which he may deem convenient to settle the matter. God keep your excellency many years. El Pardo, January 20, 1788. Valdes. To the President of Guatemala.

By the letter of your excellency of August 12 last, number 850, the King has learned of the arrival in Trujillo of the sixty families from the Canary Islands for the settlements of the Mosquito coast, and of the manner in which your excellency has helped them, and of the clothes and supplies your excellency has given them and the other orders issued in regard to the matter. God keep your excellency many years. El Pardo, January 20, 1788. Valdes. To the President of Guatemala.

On this date I, by order of the King, have notified the treasurer (intendente) of Habana not to spare the supplies you may ask him for the purposes related with the Mosquito Coast, warning him to take care and see that the goods be of first quality. I advise you of this in answer to your two letters of January 1 and March 31 last, numbers 35 and 83. God keep your excellency many years. San Ildefonso, August 1, 1788. Valdes. To the President of Guatemala.

By your excellency's three letters, September 1, October 4, and November 14, numbers 873, 890, and 12, the King has been advised

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of the arrival of Galician families to that coast on the frigates *Carlota*, *Infante don Fernando*, and *Nuestra Señora de la Lapa*, and of the orders given by your excellency for their maintenance, which are approved by His Majesty. God keep your excellency many years. Madrid, August 20, 1789. Valdes. To the President of Guatemala.

By the two letters of your excellency, dated May 4 and October 4 of last year, numbers 101 and 176, His Majesty has been advised of the sick and dead among the European settlers until that date, and of having finally established on August 18 of last year the settlement of Cape Gracias a Dios, with great contentment of the Indians. God keep your excellency many years. Madrid, August 2, 1789. Valdes. To the President of Guatemala.

The King approves your having asked the Viceroy of Mexico for three hundred thousand pesos to meet the needs and expenses occasioned by the evacuation of the English from the Mosquito coast and by the settlement of families therein, which your excellency reported by letter dated December 31 last, number 30. God keep your excellency many years. Madrid, August 21, 1789. Valdes. To the President of Guatemala.

The correspondence of your excellency with my predecessor, Señor Bailio Don Antonio Valdes, on matters relating to the Indies and the settlements of the Mosquito coast, must be continued with this Ministry of War of the Indies in my charge. Your excellency is hereby notified thereof by royal order that your excellency may be properly advised and act accordingly. God keep your excellency many years. Aranjuez, May 2, 1790. The Count of Campo Alange. To the President of Guatemala.

The foregoing documents are a true copy of their originals.

ALEXANDRO RAMIREZ.
(Flourish.)

GUATEMALA, *February 3, 1803.*

A true copy of the original which is kept in this archive at shelf 100, box 2, file 8.

(Signed) JUAN LAFITA Y. DIEZ,
The Secretary.

O. K.

(Signed) P. TORRES LANZAS,
The Chief.

(Seal of the Central Archives of the Indies. There is a stamp of the 11th class, and one peseta.)

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1806. Guatemala. General Archives of Indias, Seville, shelf 102, box 4, file 11.[1]

Communication of the royal decree of November 13, 1806, to the President of Guatemala providing that he has absolute jurisdiction over all the affairs of the colony of Truxillo and other military towns of the Mosquito coast.

SAN LORENZO, *November 13, 1806.*

War.

EXCELLENCY: To the captain general of Guatemala I say under this date as follows:

The King being informed of the letters of your excellency of March 3, 1804 (numbers 416 and 417), and of the documents attached thereto, communicating the creation of two ordinary mayors (alcaldes) and a general solicitor within the colony of Truxillo; and of the question raised by Col. Don Ramón Anguiano, governor treasurer of Comayagua, who claims to exercise the powers of treasurer according to the ordinance of New Spain in the settlements of the Mosquito coast, and to be the only chief therein, entirely independent in the four branches of justice, politica, treasurer, and war, of which the presidents of Guatemala have taken cognizance in the new colonies; *His Majesty has resolved that your excellency is the one who must have exclusive and absolute cognizance of all cases arising in the colony of Truxillo and other military posts of the Mosquito coast, concerning the four branches aforesaid, compliance with the royal orders issued since the year 1782, which authorize him to occupy, defend, and populate the said coast*, until this object being accomplished in whole or in part, His Majesty shall deem proper to change the present system and therefore your excellency did well and in the exercise of his powers proceed to the election of the alcaldes and solicitor, in spite of the power which the treasurer arrogates to himself founded on the ordinance of these offices, because besides its general character and inadaptability to a privative commission, the said ordinance has not been enforced in the said coast since its dispatch to Guatemala for compliance with its provisions as far as adaptable.

By royal order I communicate it to your excellency in accordance with what your excellency stated to me on the 20th of August last year, and in order that the ministry under your charge shall issue such orders as shall be proper for its fulfillment.

May God protect your excellency many years. San Lorenzo, November 13, 1806.

JOSEF CABALLERO. (Flourish).

Señor DON MIGUEL CAYETANO SOLER.

A true copy from the original kept in this archive, shelf 102, box 4, file 11.

(Signed) JUAN LAFITA Y DIEZ,
The Secretary.

SEVILLE, *November 26, 1917.*

Countersigned:

THE CHIEF.

(Signed) P. TORRES LANZAS.

[1] Reprint Guatemala Annex 4, pp. 126–127.

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Here is the seal of the General Archives of Indies, and a stamp of class 11, and a peseta.

DOCUMENT "K."[1]

Representation of the constitutional solicitor general of the municipality of Comayagua, dated October 16, 1820, which appears on the record of the proceedings for the establishment in the Province of Honduras of a provincial board in compliance with article 325 of the Spanish Constitution.

The constitutional solicitor general of this noble and loyal municipality, mindful of the sacred obligation which devolves upon him by reason of his office, and mindful also of the clamor of all the inhabitants of this vast Province of Honduras, finds himself in the dire and urgent necessity of requesting your excellency to make appropriate representation to His Majesty and the sovereign courts, soliciting the establishment, in this Capital, of a provincial board which may attend to the development of the departments of agriculture, mines, and commerce, with which our land is so abundant and rich. The undersigned is aware of the fact that your excellency, knowing the imperative necessity of establishing the said provincial board, by virtue of my first representation has appealed for this purpose to the provincial or preparatory board of Guatemala; I beg to say, however, that we must hope for nothing favorable, because the interests of the said Capital are diametrically opposed to those of the Provinces, and more particularly to those of Honduras, which they have tried to destroy by all possible means suggested by malice, intrigue, and greed. These truths are not merely the expression of an opinion by the Solicitor General; they are proclaimed by the very notoriety of the facts. Witness that scandalous Chalhuapa fair, where, for more than a century and a half, they compelled us to take our cattle, and where an apprizer appointed by them, as their friend, not only at his discretion fixed in detail the price at which they must sell, but also designated the persons to whom we had to deliver the cattle, and this disorder, this greed, this despotism, and this horrible sacrifice were so great that even when a vendor had a purchaser who would pay him ten dollars for his cattle, he was obliged and compelled to sell it for four, which was the valuation set on it by the apprizer. Witness the ports of Omoa and Trujillo, which they kept closed for more than a century in order that we should in this way be compelled to buy from Guatemala everything we needed for our commerce and even to clothe our families. Witness these same ports which, in spite of the fact that the sovereign "Cortes" and even our beloved Monarch recently issued two royal orders placing them under this Government, they have refused to

[1] Reprint Guatemala Annex 7, pp. 184–186.

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comply with them in Guatemala (without any other reason than the long distance from the Crown and their detestable greed) in spite of the fact that the first is only sixty leagues from Comayagua and the second seventy-two, while from Guatemala the first is two hundred and ten leagues, and the second two hundred and twenty-two. Witness, lastly, among many other cases to which I might refer, the one which is happening at the present time, when, without any better reason than their private commercial aims and the purpose of disheartening this unhappy Province, the "Director General de Tabacos" wishes to wrestle from our hands the factory situated in this city since its establishment, and take it to the town of Tegucigalpa, to the very great damage of the national treasure and its very revenues, and by reason of this scandalous thing we have seen this loyal people become excited and reach the point of a popular outbreak when they learned of the arrival of the order for the said transfer, and if they remained tranquil and peaceful it was only because of the prudence and moderation of your excellency and because of the great patriotism of our worthy chief, Señor don José Gregorio Tinoco y Contreras, who immediately commanded obedience and noncompliance with the said order. The Province of Comayagua, gentlemen, does not deserve any such depressing treatment; this Province has been at all times worthy of the greatest consideration for her famous loyalty and love for the just cause. Public witness of this truth is the fact that this municipality was invited by an anonymous person from Guatemala in the year eighteen hundred and eleven to join a general uprising which should bring about her independence; this was not only refused with the greatest indignation, but her worthy representatives ordered (as was done) the despatch of a special courier to the captain general with the infernal paper in order that his excellency, by discovering the author, might pull out by the roots the fatal corruption which was menacing all the Kingdom, which was done, the most notable thing being that although all the other municipalities had been called together, only that of Honduras took this step, and the others, if they did not accept, at least kept it secret within their breasts. The troops of Comayagua and its Province, in the year one thousand and twelve, when the Provinces of León, San Salvador, and Granada raised the detestable cry of rebellion, fired with the sacred sentiment of loyalty, started against those places, and, after a year of constant hardships and sacrifices, compelled them to maintain order and to recognize the legitimate authorities, and finally left the said places in a state of quiet and tranquillity. And the solicitor asks: What was the reward and recompense given to these troops and their worthy leaders, whose names ought to be engraved in gold equally with those well deserving of the Fatherland? None. And what was the cause? The infernal

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opposition of the Guatemalans against the inhabitants of Honduras. Comayagua, gentlemen, has from east to west two hundred and ten leagues and from north to south one hundred and fourteen; within her jurisdiction are the ports of Omoa, Trujillo, Triunfo de la Cruz, and Puerto de Sol on the north; on the south, San Bernardo, La Baraja, and some smaller ones; her products are the most admirable of the universe because among them is found every kind of exquisite wood known, excellent and abundant balsams, gums, vanilla, sarsaparilla, logwood, mulberry wood, sassafras, black pepper, cochineal, saffron, bastard saffron, coffee, cocoa, beans, rice, corn, black wax, annatto, wheat, senna leaves, ipecac, cinchona, dorstenia, sage, talc, tea, ginger, cotton, cassia fistula, tortoise shell, coculmeca, popal, hides, raw and cured, sheep wool, leche de Maria and Mechoacan, deer and tiger furs, agave, mescal, wild silk, tobacco, the excellent stone called opal; a considerable multitude of cattle, mules and horses; indigo blue; and finally, the rich and numerous gold, silver, copper, iron, and lead mines, which excel in legal standard and abundance all other mines known in the universe, and which, if they do not produce coin enough to make all Europe rich, do not do so because, instead of finding in Guatemala the necessary assistance, we encounter only destructive orders and trammels which obstruct everything. Under these solid and incontestable premises, namely, that Guatemala is one hundred and fifty leagues of painful roads from Comayagua; that the extent of this Province comprises nearly the area of a kingdom; that it contains one hundred and eleven thousand four hundred and sixty-six inhabitants and one hundred and ninety-five cities, towns, villages, and hamlets, as is shown in the table which is attached hereto,[1] is there anyone who can doubt for a single instant that we should have, and that there ought to have been already established, a provincial board, a university, in Comayagua? I think not. And I believe further that as soon as the sovereign "Cortes" are informed of the reasons and causes above set forth and enumerated, they will grant us not only these things, but also a territorial court in order to relieve these poor inhabitants of the troublesome and expensive necessity of applying to Guatemala, which many times they do not do for the lack of means for the purpose, and thus must abandon their cause, however just it may be. The creation of this provincial board, far from injuring the national treasury, would increase it by much greater sums, because her true sons, who would compose it, would try to give a rapid and forceful impulse to its abundant and rich mines, overcome the difficulties of exporting the other products of commerce by rendering navigable such rivers as discharge into the Mar del Norte, and others into the Mar del Sur; and finally, they would do all in their power to make their Father-

[1] The table referred to did not accompany this Guatemalan document.

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land a flourishing country; and while, as has already been shown, instead of being the richest of the universe it is so far the poorest, in time it may be the happiness of the whole of Europe. The conversion of this college seminary into a university is also of the greatest importance, because our young men, whose talents are admirable, will have a place in which to cultivate them, and the nation ought to expect by this means to have citizens who will do honor to the Fatherland. This can also be accomplished without burdening the national treasury. At the present time we have in this college the chairs of latinity, philosophy, and moral theology; it is necessary to establish that of cannonical and ordinary law, medicine and surgery, and a third of mineralogy, by reason of the fact that this is the Province where all the mines of this continent are. The personnel of the last three can be supplied by suppressing the doctoral and plenipotentiary cannonships which are not of strict necessity in this cathedral, where there are five dignitaries. The product of these two cannonships, according to a quinquennium, amounts to two thousand five hundred and fifty-four pesos, with which each one of the three classes can be endowed at the rate of six hundred pesos per annum, which makes a total of one thousand eight hundred per annum, there being a remainder of seven hundred and fifty-four pesos per annum which can be applied to the material work of the university—books, instruments, etc., and after this, to enlarge, gradually, other classes. In this way the solicitor can guarantee that in a very few years the Province of Comayagua will be the most opulent and the richest of both Americas. In this the solicitor is of the opinion that, taking into account the obstructions caused by the multitude of insurgents who infest the said Province, we must not hope to obtain too soon the happy results which we expect from the sovereign "Cortes," and for this reason the installation of the provincial board should be proceeded with immediately. A speedy establishment of this board, far from causing injury to the people, will bring invaluable benefits both to the Province and the nation at large. Article three hundred and twenty-five of our immortal constitution, which provides that in each Province there shall be a legislature (diputación) called provincial, shall in this way be complied with. *No one doubts that Comayagua is, since its conquest, such a Province, and Law 15, Book V, Title I of our Indian Recopilación sets forth in detail its boundaries which are the islands of the Guamajas.* You, who are the representatives of the people, are the ones who must look after their happiness, and the time has arrived when we must not persist in the gloomy and dark silence of slavery; we have already arrived at a glorious time when we must raise our voice with freedom and lay before that wise and just national congress, composed of our own brethern, and before a King

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who is an impartial executor of law, that which is convenient for us, asking what we need to complete our happiness; this is what the solicitor claims; this is what the towns wish; and this is what is asked by the whole Province of Honduras, whose universal pleadings I believe will not go unheeded by you. Comayagua, October sixteenth, one thousand eight hundred and twenty. Juan Francisco Clavasquin.

HONDURAN-GUATEMALAN BOUNDARY CONFERENCE.

SEPTEMBER 26, 1918.

SIR: I have the honor to acknowledge the receipt of your notes dated September 20 and 24.

The former was accompanied by your reply to the Honduran "ampliacion" dated August 27, 1918, with a copy for the delegate of Honduras, which was handed to him on Saturday last.

The latter brought me the proofs mentioned therein along with a descriptive index of the proofs and translations in English of all these documents. The extra copies were handed to his excellency Policarpo Bonilla on the 25th instant.

These papers will receive careful consideration in connection with the other documents submitted.

I have the honor to be, sir, your obedient servant,

BOAZ LONG.

Dr. LUIS TOLEDO HERRARTE,
Envoy Extraordinary and Minister Plenipotentiary on Special Mission, The Oakland, Washington.

SPECIAL MISSION OF GUATEMALA,
Washington, D. C., October 28, 1918.

Most Excellent Mr. SECRETARY: The honorable Government of the United States of America, moved by the sentiments of fraternity and concord which guide its international policy, deign to tender its disinterested and friendly mediation to the Governments of Guatemala and Honduras with a view to a satisfactory settlement of the century-old differences that exist between them for the lack of an accurate, well-defined boundary line marking their respective territorial jurisdiction. Both approvingly received that very generous initiative, and negotiations looking to the above mentioned settlement were accordingly opened in this capital under the auspices of the Department of State under your excellency's wise direction.

It affords me gratification to say to your excellency that the Government which I represent has, in the course of those negotiations given evidence of the spirit of conciliation and harmony by which it is animated and on every occasion displayed its willingness to arrive at an understandng and earnest desire to respond to the generous action of the Government of the United States.

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Unfortunately, the honorable delegation of Honduras does not seem to profess the same principles, and from the very first ordinary session of the conference, which its worthy chief failed to attend without previous explanation or plausible excuse, until this day its course has rather been calculated to obscure and hamper the solution sought by us in entire good faith.

I could cite various concrete examples in support of my assertion, but do not wish to trespass upon your excellency's much engaged attention and shall confine myself to speak of the last which is so important that I can not and must not let it pass unnoticed. Señor Don Policarpo Bonilla, plenipotentiary delegate of Honduras in his memorandum of August 27 of this year, made a solemn promise to produce his proofs on Sepetmber 15, and the delegation over which I preside, relying on the high word of the distinguished Honduran statesman, had no objection to submitting its own a few days thereafter. Nevertheless and notwithstanding the friendly steps that I have had the honor to take with the honorable Messrs. Stabler and Long, representatives of the mediator Government, Señor Dr. Bonilla has not redeemed his promise, and inasmuch as that very strange proceeding, by unduly delaying the conclusion of the controversy is causing serious injury to the interests of the country I represent, and, what is ever regrettable, constitutes a grave danger for the happy outcome of the negotiations and threatens to foil the noble efforts of the United States Government for an amicable satisfactory settlement, I find myself under the painful necessity of lodging with your excellency my respectful protest against the course taken by the honorable delegation of Honduras and of declining all responsibility flowing from the awkward situation created by his unaccountable conduct.

Feeling assured that the upright and impartial judgment of your excellency will vindicate the step I am compelled to take, I have great pleasure in renewing to you the assurances of my highest and most distinguished consideration.

LUIS TOLEDO HERRARTE.

The Most Excellent Mr. ROBERT LANSING,
Secretary of State of the United States,
Department of State.

[Translation.]

SPECIAL HONDURAN MISSION IN THE UNITED STATES OF AMERICA.

1821 M STREET,
Washington, October 24, 1918.
(Received Oct. 29th.)

SIR: I have the honor of enclosing to your excellency explanatory index of the pleadings and proofs which have been presented or are now presented in the Honduran-Guatemalan boundary question, as

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also extracts from said proofs, all in duplicate with the exception of the books, one set being intended for the Guatemalan Mission. I shall deliver the English translation of these documents as promptly as possible.

Among these proofs there should figure the royal rescript of 1791, referring to the annexation of the alcaldía mayor de Tegucigalpa to the Province of Comayagua, which, upon advice of the attorneys who are acting as counsel for the mission, has been requested by cable from Spain. This document may arrive in time for the attorneys to take into consideration in their brief, if it has an important bearing on the question.

By way of further illustration, I present to your excellency the following maps prepared by the Honduran engineers:

1. Original map of the territory adjoining the boundary marked by the line of possession of both countries, which map, from Cerro Brujo to the Managuá River, is true and accurate, having been drawn from data obtained on the ground by the engineers of both countries. On the other side of the Managuá, the map is accurate only along the line of the mountains, the Motagua River and the coast, but not along the intermediate rivers, creeks, and mountain ranges, for the course or extent of these was not especially surveyed, although their localization is very approximately true. Scale 1:100,000.

2. Photographic copy of the same map on a scale of 1:200,000 because it was not possible to obtain one of larger size.

3. Maps on a scale of 1:50,000, of the first and second portions of the boundary line; that is, from Cerro Brujo to beyond the parallel of Copan, which is the location of the lands appropriated since a remote period, these being localized in the best manner which has been possible; but for our purposes there is sufficient accuracy, because the lands border upon each other, so that, should there be any discrepancy in the boundaries, it would be a question of private rights, but would not affect the proof of sovereignty in said territory.

As the printing of Volume III which contains extracts from the title deeds to lands, was not finished in time, I present said extracts as proofs, in duplicate, provisionally, and shall duly replace them with the book when I receive it.

The originals of the documents or certified copies are at the order of your excellency.

I am pleased to remain, your obedient servant,

(Signed) P. Bonilla.

His Excellency, Mr. Boaz Long,

Minister, representing the Government of the United States of America as mediator in the Honduran-Guatemalan Boundary Negotiations.

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OCTOBER 31, 1918.

SIR: I have the honor to acknowledge the receipt of your note dated the 28th instant, in which you protest against the Honduran Boundary Mission's delay in submitting the proofs, in support of their contentions in the boundary matter, which they had promised to hand in not later than the 15th of last September.

It gives me pleasure to enclose herewith three documents which have been supplied by the Honduran Boundary Mission:

(1) Indice de los alegatos y pruebas en que se apoya la pretension de Honduras en la cuestion de limites con Guatemala.

(2) Anexo XXV. Cuestion de limites con Guatemala. Extractos de los documentos que se presentan o amplian, segun el indice razonado de esta fecha.

(3) Volumen III. Conteniendo copias impressas de los titulos de tierras cerca de la frontera discutida.

The first was received October 29, the second and third were handed to me this morning.

I have the honor to be, sir, your obedient servant,

BOAZ LONG.

Dr. LUIS TOLEDO HERRARTE,
Envoy Extraordinary and Minister Plenipotentiary on Special Mission, Oakland Apartments, Washington.

MISION ESPECIAL DE GUATEMALA,
Washington, D. C., November 2, 1918.

SIR: I have had the honor of receiving your esteemed note, with which, and in reply to the communication which I took the liberty of addressing to his excellency the Secretary of State on October 28 last, you were kind enough to send me the following documents:

(1) Index of pleadings and proofs upon which the Honduran claims are based in the Guatemalan-Honduran boundary question.

(2) Exhibit XXV—Question of boundary with Guatemala.—Extracts from the documents or amplifications presented, as per explanatory index of this date.

*(3) Volume III containing printed copies of the title deeds to lands near the boundary under discussion.

Thanking you for forwarding these documents, which reached me in due course, I am pleased to remain, with expressions of the greatest esteem,

Your obedient servant,

(Signed) LUIS TOLEDO HERRARTE.

Mr. BOAZ LONG,
Representing the Honorable Mediator Government in the Question of Boundaries between Guatemala and Honduras, Department of State.

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* This volume is in Spanish. Only the foreword and "Index of Titles" were translated, it being thought that they would suffice for this record. They will appear in Vol. II.

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TRANSLATION EXHIBIT XXV, HONDURAS-GUATEMALA BOUNDARY DISPUTE.

EXTRACTS FROM DOCUMENTS HEREWITH PRESENTED, AMPLIFIED ACCORDING TO THE EXPLANATORY INDEX OF EVEN DATE.

October 24, 1918.

GENERAL EXPLANATORY INDEX OF THE DOCUMENTS CONTAINED IN EXHIBIT XXV.

1581. *The Province of Honduras, as a unit.*—Letters and records of the Secular Councils of Leon Nicaragua, San Salvador and *Comayagua*—mines discovered—the Alcadia of Tegucigalpa, which was created at a later date, was independent of the governancy of Comayagua, but in military and fiscal matters it continued to form an integral part of Honduras until it was again consolidated therewith after the establishment of the Intendencia. No. 1.

1620. *Santo Tomas in Honduras.*—Pedro de Agurcia paid 740 tostones to the pilots who conducted the vessels which arrived at Trujillo from Spain to Santo Tomas. No. 2.

1722–1723 (H). *Golfo Dulce in Honduras.*—Amplified extract of the report of Oidor (Judge of the Audiencia) Jose Rodezno giving an account to his Majesty together with the original records under the commission issued by the Audiencia of Guatemala relative to the proceedings which he instituted in the Province of Honduras against the universities and individual defendants charged with smuggling, and his recommendations to prevent the same in the future by the erection of a fortress at Port Omoa in that Province—he recommends that the fortress at Golfo Dulce should be razed. No. 3.

1744–1758. *The Motagua River in Honduras.*—Description of the north coast of the Kingdom of Guatemala by Engineer Luis Diez de Navarro—this extract is amplified in Exhibit XXV. No. 4.

1748. *Golfo Dulce in Honduras.*—Letter of Antonio del Castillo addressed to Pedro Truco, Lieutenant Governor of Honduras, in which it is shown that the latter exercised jurisdiction in the fortress at Golfo. No. 5.

1752. *The Motagua in Honduras.*—Order issued by the Governor of the Province of Honduras for the payment of the expenses in the construction of a vessel in the Motagua River. No. 6.

1769. *Appointment of the Governor of Honduras.*—Commission issued to Bartolome Perez de Quijano. No. 7.

1777. *Linguistic frontier.*—Petition of the priest of the Village of San Sebastian annexed to Ocotepeque in the Province of Honduras to the President of the Audiencia of Guatemala and decision rendered thereon, in which it is shown that the Indians of Jocotan, Camotan, and San Juan de la Hermita dwelling in said village speak

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only the native language and that there was no one to interpret to them. No. 8.

1779. *Ocotepeque.*—Instrument relating to a religious charge on the estate of Santa Ana in the District of Ocotepeque, Bishopric of Comayagua. No. 9 of the Exhibit.

1784. *San Antonio del Descanso and Jigua.*—Consultation addressed to the Captain General of the Kingdom of Guatemala and decision rendered thereon by him that the Governor of said villages was subject to the jurisdiction of the Lieutenant at Quesailica appointed by the Lieutenant of Gracias, Province of Comayagua. No. 10 of the Exhibit.

1787–1789. *Appointment of the Governor of Honduras.*—Commission issued to Alejandro Garcia Conde as Governor-Intendant of Comayagua and Commandant General of the military forces of the Province of Honduras. No. 11.

1788. *Intibuca.*—Appointment of a priest for said village in the Bishopric of Comayagua made by the Captain General of Guatemala in his Majesty's name. No. 12.

1791. *Jurisdiction of the Intendencia and Bishopric of Honduras over the same territory.*—Amplified extract from the Report of the Bishop of Comayagua showing which of the towns now claimed by Guatemala were included in said Bishopric and the royal rescript showing that the Bishopric and Governancy had the same territorial jurisdiction. No. 13.

1793. *Ocotepeque as the meeting point of the three Provinces.*—Extract from the complaint filed by Captain Figueroa to the Audiencia of Guatemala against the vices and disorders which occurred at Ocotepeque due to this town being on the border of the three Provinces. No. 14.

1797–1798. *San Antonio del Descanso.*—Petition of the residents of said village in the jurisdiction of Comayagua to the Captain General of Guatemala and decision of the latter that there be issued to them a certified copy of the record relative to the proceedings had upon the creation of said Village. No. 15.

1800–1802. *Golfo Dulce in Honduras.*—Data regarding the Kingdom of Guatemala taken from the general archives of the Indies in which it is shown that Golfo Dulce is in Honduras. No. 16.

1804. *The Copan Valley.*—Amplified extract from the Report of the Governor of Honduras, Ramon de Anguiano, transmitted to the King in which it is shown that the Honduran towns comprised in the latest Guatemalan claim, especially the Copan Valley, belong to the Province of Honduras. Exhibit XXV, No. 17.

1811. *Appointment of the Intendant.*—Commission issued by the King to Juan Antonio Tornos y Cagigal as Political and Military Governor of Comayagua. No. 18.

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1820. *San Andres in the Bishopric of Honduras.*—Record of matrimonial proceedings of U. H. resident of said place. No. 19.

1822. *Cuyamel.*—Deed of purchase and sale of property situate at Cuyamel in the jurisdiction of Omoa. No. 20.

1787–1823. *Gracias a Dios, Cucuyagua, Petoa, and Quesailica.*—A docket of ecclesiastical documents showing that the Bishopric of Comayagua exercised jurisdiction in said parish, and that this was recognized by the authorities of the Archbishopric of Guatemala. No. 20 bis.

1840. *Omoa and Motagua.*—A note addressed by the Collector of Omoa to the Supreme Chief of the State of Honduras relative to the claim of the Collector of Izabal to collect duties on merchandise brought in by the Motagua River, the mouth of which is in Honduras. No. 21 (certification).

1844. *Guatemala claims the Motagua River as the boundary.*—Editorial paragraph of La Semana, of Guatemala, followed by the instructions drawn by Larreinaga and Maurre commissioned by the Government of Guatemala for the use of the latter's representative at the boundary conferences with Honduras. No. 22.

1851. *The dividing line between the two States.*—Note of the Commandant of Jocotan to the Second Municipal Mayor of Copan transmitting the accused G. C. from the Corregimiento of the Department of Chiquimula to the State of Honduras. No. 23.

1857. *The frontier near Copan.*—Note of Rafael Juarez of the District of Esquipulas (Guatemala) to the First Municipal Mayor of Copan stating that the farm called Coyoles is in the jurisdiction of the latter and requesting the apprehension of E. R. and his transmission to the boundary line. No. 24.

1857. *The dividing line between the two States.*—Note of Vicente Cerna, Governor and Commandant General of Chiquimula addressed to the Second Mayor of Copan acknowledging receipt of an official note and that the dividing line is in the vicinity. No. 25.

1857. *Estanzuela.*—Note from the Municipal Court of the town of Esquipulas (Guatemala) to the First and Second Mayors of Cachapa acknowledging that said place belongs to the State of Honduras. No. 26.

1858. *Tigre Mountain.*—Note from Leandro Godoy, Commandant of the District of the town of Esquipulas to the Municipal Mayor at Copan acknowledging that said mountain is within the jurisdiction of the State of Honduras. No. 27.

1864. *Canal between the Motagua River and Graciosa Bay.*—Agreement by and between Leon Alvarado, Commissioner for the Government of Honduras and Jean A. de Brane, representative of the "Guatemala Company." No. 28.

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1865. *El Playon.*—The Archbishop of Guatemala, in a letter addressed to the Bishop of Comayagua, Fr. Juan de Jesus Zepeda, acknowledges that said village is a parish of Sensenti in the jurisdiction of said Bishopric. No. 29.

1866. *Llanito del Morro.*—Note from the Court of Camotan to the Mayor of Cachapa acknowledging that said place has been considered since time immemorial as situate on the dividing line between the two States. No. 30.

1866. *Jutes.*—The Acting Mayor of Copan writing from Cachapa (Honduras) notifies the Local Commandant of Jocotan (Guatemala) of the invasion of Cordoncillo by the Guatemalan sergeant named Sagastume—reply of the Commandant disapproving the action of the invader—note from the same Commandant containing an official communication from the Mayor of Camotan in which the latter advises that at the request of the Mayor of Cachapa one Ines Sanchez has suspended his agricultural work in a wood belonging to Jute (Honduras)—two notes from the Acting Mayor of Copan to the Commandant of Jocotan relative to the same matter. No. 31.

1867. *Estanzuela.*—Note from the Archbishop of Guatemala to the Bishop of Comayagua acknowledging the jurisdiction of the latter in the aforesaid village. No. 32.

1869. *Playon.*—Note from the Archbishop of Guatemala to the Bishop of Comayagua acknowledging that said village is in the jurisdiction of Sensenti in said Bishopric. No. 33.

1880. *Izotes Mountain.*—Marcos Pinto, Municipal Mayor of Concepcion requests the Collector of Revenues of Copan that said mountain be surveyed in favor of the said village and record of proceedings had thereunder at Ocotepeque by the Second Justice of the Peace. No. 34.

1880. *The frontier near Izotes.*—Note from J. Rufinio Barrios, President of Guatemala, to surveyor Juan B. Collart, acknowledging that the dividing line is in the Izotes lands near Esquipulas (Guatemala). No. 35.

1889. *Natural frontier.*—Report of surveyor Carlos Madrid to the Collector of Revenues of Copan in which he maintains that the Piedras Coloradas River is suitable for a boundary line between Guatemala and Honduras. No. 36.

No. 1.

General Archives of the Indies—Seville—Audiencia of Guatemala.—Letters and Record of Proceedings of the Secular Councils of Leon of Nicaragua, San Salvador and Comayagua.—Mines discovered.—Section 63, Case 6, File 48.

Sacred Catholic and Royal Majesty.

The City of Valladolid de Valle of Comayagua of the Province of Honduras, as your loyal vassals, send greeting. * * *

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About ten or twelve years ago there were discovered fifteen leagues from this city some silver mines known as Guacuaran, and about ten years ago there were discovered others which were called Teguzigalpa, also at the same distance therefrom, and as they were in the jurisdiction of this city and so near thereto, your Governor and your ordinary Alcaldes (mayors) exercised jurisdiction therein and the Governor appointed his lieutenant there; but in the last three years your Royal Audiencia of Guatemala and the President thereof appointed as Alcalde Mayor of Mines one Juan de la Cueva. * * *

At the City of Valladolid del Valle of Comayagua of the Province of Honduras on April 17, 1581.

Sacred Catholic and Royal Majesty your vassals kiss your royal hands and feet.

(Signed) BALTASAR DE MENDOZA.

(Here follow other signatures.)

By order of the Council, Justices, etc., of the City of Valladolid del Valle of Comayagua.

(Signed) ANDREAS RODRIGUEZ SALCAN,
His Majesty's Scrivener (*Rubric*).

NOTE.—This document, as well as others, proves that in the early period of the conquest of the Province of Honduras comprised all of the territory which it comprised once more on the creation of the Intendencia, which was the same as its bishopric. In the interim there was created the Alcaldia Mayor of Tegucigalpa, which in political matters was independent of the governancy of Comayagua, but in military and fiscal matters always continued to form an integral part of Honduras.

No. 2.

Jesus Velasques, Custodian of the National Archives (of Honduras), being duly authorized, certifies that in a docket of ancient documents in the custody of this office there is to be found one, of which the following is a literal transcript:

"Captain Pedro de Egurca paid forty tostones in the City of Truxillo *the past year of 1605 as the Administrator of the Royal Exchequer of the said city*, for the said year, to the pilots who conducted to the new port of *Santo Thomas de Castilla* the vessels which in said year came to *this Province* from the Kingdoms of Castile in charge of Captain Juan de Cergera and for the freight charges of the frigates on which he came from Golfo Dulce to the Port of Truxillo and returned to that of Santo Thomas de Castilla, for which there was paid to Sancho de Caballos by order of the President Dr. Alonso Criado de Castilla in the City of Guatemala, who ordered him to come for that purpose, and the amounts paid therefor were as follows: (Here follows itemized statement of amounts paid and services rendered); and for said amount the said Arrez executed a receipt before Antonio Yanes, His Majesty's Scrivener, dated at said City of Truxillo on the 11th day of September, 1605."

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(Here follows itemized statement of further payments and services rendered.)

So the three items above mentioned totaled 740 tostones, which the said Captain Pedro de Egurca *paid out of the Royal Exchequer of which he had charge* by virtue of an order issued by President Dr. Alonso Criado de Castilla of the following tenor:

Dr. Alonso Criado de Castilla, of His Majesty's Council and President of the Audiencia and Royal Chancery, residing in the City of Santiago of the Province of Guatemala, Governor and Captain-General of the whole of the District aforesaid of said Royal Audiencia, etc.

Whereas by resolution of the said Audiencia it was ordered that inasmuch as Sancho de Caballos, our Commissary, is going on a commission from us to the City of *Truxillo, Province of Honduras*, for the purpose of bringing the vessels which are shortly expected to arrive from the Kingdoms of Castile and taking them into the Port of *Santo Thomas* and for other purposes set forth in his commission, and also to pay the pilots and mariners of that coast who might be necessary in bringing said ships into said new port, and it is just that they be paid for their services, and likewise the freight charges of the frigate in which the said Sancho de Caballos should proceed to said City of Truxillo, *it was ordered that from the Royal Exchequer of the said Province of Honduras and of the said Port of Santo Thomas de Castilla and City of Truxillo* the royal officials or their lieutenants should pay the said pilots and mariners the amount which they might agree upon with the said Sancho de Caballos, and likewise the freight charges of the said frigate and that notice of the amount thereof be given to this Royal Audiencia in order that the same might be furnished and paid from the Royal Exchequer of this city *for account of the said Province of Honduras* out of unappropriated funds, and in order that this may be complied with I ordered that there should be issued and I do issue these presents whereby I do *order the royal officials of the said Province of Honduras* or their lieutenants that out of the Royal Exchequer under their charge belonging to the *said Province and the said Port of Santo Thomas de Castilla and City of Truxillo they give and pay* to the pilots and mariners who came on the said vessels from the said City of Truxillo for the purpose of bringing the same into the said new port of Santo Thomas de Castilla in amounts accordance with the agreement made with them by the said Sancho de Caballos. * * *

(Here follows a similar direction for the payment of the freight charges of the frigate to the city of Truxillo.)

Dated at the City of Santiago, Guatemala, on August 5, 1605.

(Signed) Dr. Alonso Criado de Castilla.

By order of His Excellency.

(Signed) Francisco de Escobar.

* * * * * * *

And the said Governor Juan Guerra de Ayala stated that as the said one hundred and fifty tostones were paid without warrant therefor under the order hereinabove set forth, and because the aforesaid royal officials have not rendered an account to the said President of the Royal Audiencia of Guatemala in order that the same be paid out of unappropriated funds and that the said amount be refunded by the Royal Exchequer of the said city for account of this Prov-

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ince, as directed in the said order, he had ordered and does hereby order that for the present their accounts be received and they be credited with the said one hundred and fifty tostones, with the obligation on the part of said royal officials to present the approval of the said payment by the President and Oydores (judges) of the Royal Audiencia of Guatemala within three months, upon the expiration of which time in the event of their failure so to do the same shall be collected from their goods and from their sureties for the benefit of the Royal Exchequer, and the said collection and the accounts were accordingly stated. * * *

And this cause having been heard by the said President and Oydores, they rendered a decree of the following tenor:

In the City of Santiago, Guatemala, on April 18, 1614.—The President and Oydores of this Royal Audiencia having seen the records of the accounting taken by the *Governor of the Province of Honduras* from Fernando de Lara, Treasurer, and Damian de Sierra, Auditor, and Royal Officials that were of the said Province and the Royal Exchequer thereof, which was under their charge, and the last balance sheet taken amounting to 8,783 tostones 2 reales * * * and the sum of 8,783 tostones shown in the balance sheet and the additional sums with which he and Damian de Sierra, his companion, were charged, and the coast charges and others which they paid, as set forth in the said proceedings, we do hereby upon the record and on the merits of these proceedings adjudge and decree that we should confirm, and we do hereby confirm, the decree of sale rendered in this cause by the said Oydor Visitor of the said *Province of Honduras* against the persons and property and sureties of the aforesaid * * * and this is our judgment and we do hereby so order and decree.

(Signed) COUNT DE LA GOMERA.

(Here follow signatures of the other judges.)

The Solicitor-General Licentiate, Marcos de Miranda, having been notified of this judgment, stated that he had no objection thereto and he considered it proper in the premises. * * *

Thereupon the said President and Oydores resolved that I should issue this decree in the manner aforesaid, and I have seen fit so to do. Wherefore I do order your said Governor and your Lieutenant, etc.

Given at the City of Santiago in the Province of Guatemala on July 18, 1620.

(Here follows list of emendations.)

(Signed) XPONAL ESSNO, etc.

No. 3.

General Archives of the Indies-Seville.—Years 1722 to 1723.—Section 65, Case 4, Docket 3.—Office of the Secretary of New Spain.—Secular.—Audiencia of Guatemala.—Communications and Records of the President and Oydores of the said Audiencia.

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There is a marginal note as follows: Joseph de Rodezno, Oydor, Guatemala, renders a formal report to your Majesty, attaching thereto the original records of the proceedings which by commission of the Audiencia he conducted in the *Province of Honduras* against the universities and individuals charged with smuggling, and he suggests the remedies for avoiding the same in the future by the erection of a fortress at the Port of Omoa in that jurisdiction.

SIRE: From the *Province of Honduras* I reported to Your Majesty, with copies of the proceedings had up to that time in the investigation of the smuggling, in accordance with your request of April 30, 1720. * * *

In that report I suggested to Your Majesty the erection of a fortress in the Port of *Amoa* (Omoa) as a remedy against future smuggling. * * * It is necessary that the Intendente shall be the *Governor and Captain-General of the Province*, in order that being perfectly independent he may the better issue the necessary orders and be empowered to issue letters of marque as such Captain-General (which his predecessors have lacked and failed to use because of a desire not to displease the Captaincy-General of the Kingdom, as they did not think they had jurisdiction to issue them). * * * It is in the interest of Your Majesty's Royal Exchequer to extinguish the golpho and thereby save the salary of the commandant of the fortress, which office can be filled by the *Governor of Honduras*, etc. * * *

With these ships it will be easy to search those coasts and said golpho, which is in the immediate vicinity of Amoa and Puerto de Cavallos. * * *

Guatemala, March 4, 1723.

(Signed) Dr. JOSEPH DE RODENZO, etc.

In Council on September 3, 1723.—Let this pass to the Solicitor General together with the papers therein mentioned.

* * * * * * *

As this fortress is to be constructed, that of *Golfo Dulce of that Province* should be extinguished and the convicts * * *. And this being a point of serious consideration it should be attended to, which does not appear individually from the situation of the Port of Umoa, except what this minister expresses in his letter and in another from Onofre Nunez which accompanied the same (and who it seems is the author of the maps which he transmits therewith).

* * * * * * *

MADRID, *February 12, 1724.*

In Council on February 16, 1724.—As stated by the Solicitor General.

* * * * * * *

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No. 1. The Sacatan River, which is capable of navigation by galleons.
No. 10. Golfo Dulce.
No. 17. River Dulce. Navigable with canoes.
No. 19. The Motagua River, which can be navigated by vessels for a distance of 12 leagues and by canoes for a distance of 80, which river passes near the Bodegas of Golfo.
No. 23. The splendid Bay of Omoa.
No. 24. Puerto de Cavallos.
No. 43. The Bay of Trujillo.
No. 48. The River Tinto.
No. 50. The River Platanos.
A. The City of Comayagua, the principal city and capital of this *Province of Honduras.*
D. The City of Gracias a Dios.
E. The Town of Santa Cruz de Yoro.
F. The City of San Jorge de Olancho. * * *
G. The District of Olancho Viejo. * * *
H. The District of Cantarranas. * * *
I. The District of Tencoa. * * *
J. The District of Olua. * * *
K. The District of Guscateca. * * *
M. The Mining District of Tegucigalpa.

* * * * * * *

T. The Fortress of the Golfo Dulce, situated at the mouth facing the Golfo Grande inland. * * *

If the purpose is to protect the ships, this can not be done, and if the purpose is to protect the road from the Bodegas to Guatemala, this can not be done either, because as the Motagua River passes near the Bodegas the enemy can effect a landing.

* * * * * * *

No. 4.

General Archives of the Indies.—100-2-9.—1744.—Description of the Kingdom of Guatemala by Engineer Luis Diez Navarro, Guatemala.—May 30, 1744.

Description of the Kingdom of Guatemala from the visit of Luis Diez Navarro, Engineer, made in 1743, for transmission to his General, His Excellency the Marquis of Pozo Blanco, of which the following is a transcript:

The whole of this Kingdom from east to west is a little over 600 leagues in length and from north to south 130 leagues in some places and in others 100, and at the narrowest point 60; on the west it borders on the Kingdom of New Spain; on the north it borders on the Provinces of Tabasco and Yucatan; on the east and southeast on the Province of Veraguas and the mainland, and on the south on said sea. The greater portion of this kingdom is uninhabited because of the scarcity of people. I shall commence my description of it with *Golfo Dulce,* which is nearest to this capital on the north sea; it being noted that my description covers what I personally saw and also what I did not see

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personally, the latter being based on information which I obtained from the best informed persons that I met.

Said Golfo is northeast of this city. * * * It empties through a branch which opens into the sea of the north in the *Gulf of Honduras;* said branch is called the Golfo River; from said lagoon to the sea there are 14 leagues which are navigable; on said Laguna Dulce at the mouth of the river there is a redoubt which is called Castillo del Golfo. * * * In addition to its garrison, which consists of 43 men, 2 officers, and a chaplain, there are twenty men with their captain detached there as corsairs of the *Gulf of Honduras.*

The *Gulf of Honduras* (*alias Santo Thomas*) is 96 leagues from the capital to the northeast at a latitude of fifteen degrees forty-three minutes and two hundred and ninety-seven (*sic*) degrees forty minutes longitude; it is a great indentation formed with the *coast of Belize or Yucatan,* running northward one-quarter northeast, and the *coast of Honduras,* which runs from west to east. * * *

The Motagua River, which is very copious and up which large canoes can navigate many leagues, is *on the coast of Honduras,* running from west to east for a distance of eight leagues from the mouth of the gulf, and descends from the mountains of Sacapa; between the mouth of the gulf and this river is Point Manachi and two small ports called Graciosa and Santo Thomas de Castilla, and the Chiquel River, which is not navigable.

The Port of Omoa is situate on the said coast of Honduras. * * * It *belongs to the jurisdiction of San Pedro Zula, which is a lieutenancy of the Governancy of Comayagua of Honduras.* * * * This port is the safest, cleanest, and best protected of the whole *coast of Honduras.*

Puerto Cavallos is twenty and one-half leagues distant from the mouth of the Golfo * * * and belongs to the District of San Pedro Sula. * * * Beyond this port to the east about twenty-four and one-half leagues from the mouth of the gulf lies Chamelecon River. * * * The Ulua River is further east, distant thirty-one leagues from the month of the Golfo. It is very copious and flows throughout the greater part of its length in the Province of Comayagua. * * *

Puerto de Sal is 37 leagues from the mouth of the Gulf. * * *

The River Leon, also known as the Leones, is 46 leagues from the mouth of the Golfo. * * * Between it and the Port of Truxillo, which is further on, is the inlet named Triunfo de la Cruz. * * * Puerto Truxillo is distant 68 leagues from the mouth of the Gulf. * * * It is distant from this capital about 237 leagues by land and from that of *Comayagua, to whose jurisdiction* it belongs, 95 leagues, and the nearest settlement to said port is Sonagurea, the greater part of which road is over rough mountains—*the jurisdiction of the government of Comayagua from Honduras commences along the coast from the Motagua River, which has been mentioned, and ends at Port Truxillo,* which is 60 leagues in length and in width from north to south the same distance. * * * Its capital is said City of Comayagua and it has four cities, named Gracios a Dios, which is the one furthest west; San Pedro Sula, to the northwest; San Jorge Olanchito and Sonaguera to the east. The towns nearest the coast are in the District of San Pedro Sula, called Candelaria Vieja * * * distant 12 leagues from the Ports of Omoa and Cavallos. * * * In the said Port of Truxillo is where His Majesty has ordered that there shall be erected one of the two said forts for the defense of the ports of that Province and to exterminate the Zambos, Mosquitos, and English settlers along the coast engaged in smuggling. * * * The Port of Omoa can be fortified and at less expense than Truxillo, as its harbor is more protected.

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Continuing eastward along the coast is situate the River Aguam, distant about 84 leagues from the mouth of the Golfo, and 6 leagues by a straight line from Truxillo. * * * It rises in the *mountains of Sulaco in the jurisdiction of the Government of Comayagua*, over 70 leagues from its mouth. * * *

The Simones River is distant 90 leagues from the mouth of the Golfo. * * * Continuing along the coast in the same direction, distant 102 leagues from the mouth of the Golfo, is the River Tinto. * * * It rises in the Alcaldia Mayor Tegucigalpa and flows through the valleys of Olancho Viejo. * * *

Continuing along the coast is the River Payas, distant 102½ leagues from the mouth of the Golfo. * * *

The River Platanos, or Platanar, is distant 106 leagues from the mouth of the Golfo. * * *

Continuing along the coast in the same direction is the port called Cartago. * * * *Cape Gracios a Dios, which is the furthermost point along the said mentioned direction of this coast of Honduras*, is distant from the mouth of the Golfo 134 leagues. * * *

Guatemala, May 30, 1744.—A second copy of this report was made on July 31, 1757, to transmit to Count Aranda, Director General of the Artillery and Engineers' Corps.—Guatemala, November 30, 1758.

(Signed) LUIS DIEZ NAVARRO.

No. 5.

To the Commandant Pedro Truco.

SIR: With the notice given me by His Excellency Governor Diego Tablada in contingent cases that may arise as being necessary for the better protection and defense of this royal fortress, because as appears there is a plan on foot to surprise the same, I do not fail to inform Your Excellency that for that purpose I need 100 rifles. * * *

May God keep Your Excellency many years.

Dated Castillo of Golfo Dulce August 28, 1748.

Very respectfully,

ANTONIO DEL CASTILLO.

No. 6.

Order issued by the Governor of the Province of Honduras for the payment of the cost of constructing a galleon in the Motagua River.—1752.

Jesus Velasques, Custodian of the National Archives (of Honduras), being duly authorized, certifies that in a docket of ancient documents in the custody of this office, at volume 10 corresponding to the Eighteenth Century, at page 129 there is to be found an order issued by the Governor of the Province of Honduras directed to the officials of the Royal Exchequer of Comayagua, of which the following is a literal transcript:

DEAR SIRS: Pedro Truco who has had charge of the construction of the galleon which has been completed in *the Motagua River* informs me that a warrant having been issued for 3,000 ps. to pay the laborers engaged in the construction thereof out of the funds of that Royal Exchequer, by the Board of the Royal Treasury in accordance with the representations made in my behalf in Guate-

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mala he has received only 1,000 ps., which amount is not only insufficient but even the 3,000 ps. will not cover the expense of bringing it out to the seaboard. He requests that warrants be issued for the liquidation of the balance and to complete the entire cost thereof. I therefore order and direct you that without delay you pay him the aforesaid balance of 2,000 ps. in order that there shall be no further delay in putting this ship to sea which it is so important shall patrol the coast.

God keep your Excellency many years.

Granada, June 15, 1750.

Your obedient servant,

(Signed) ALONSO JEREZ DE HEREDIA.

To the ROYAL OFFICIALS OF COMAYAGUA.

To Brigadier Alonso Jerez de Heredia.

DEAR SIR: By letter of last June you order us to deliver, without delay, to Pedro Truco the balance of 2,000 ps. out of the 3,000 ps. which by order of the Superior Government and Board of Royal Exchequer were authorized, to put to sea the galleon constructed in the Motagua River. We take pleasure in informing your Excellency that said order has been complied with by the payment of these sums, 1,000 ps., which were first requested on May 5th, and the remaining 2,000 ps. on June 11th, the latter having been delivered by Franco Maz, of said ship, and the first amount having been delivered by Salvador de Boada, also a member thereof. Your Excellency can rest assured that we are very prompt in obeying your Excellency's orders without delay.

God keep your Excellency many years, etc.

Comayagua, July 12, 1750.

(Signed) FRANCO DE THOVES.
DOMINGO DE HAVANA SALAZAR.

The foregoing is a copy of the original transmitted to the said brigadier, Alonso Jrz. de Heredia. In witness whereof we certify and sign these presents on the date thereof.

(Signed) FRANCO DE THOVES.
DOMINGO DE HAVANA SALAZAR.

At Comayagua, on October 16, 1752, I issued a certified copy of this report to the royal officials for the formation and justification of their accounts, by order of His Excellency the President, Governor, and Captain General of this Kingdom.

In witness whereof I make this annotation.

(Here follows authentication of signatures.)

No. 7.

General Archives of the Indies.—Seville.—Years 1605–1821.—Section 100, Case 3, Docket 2.—Audiencia of Guatemala.—Appointments of Captains General, Governors, Military Commandants, and Intendentes.—Commission issued to Bartolome Perez Quijano as Governor of Comayagua.—Madrid, March 14, 1769.

Bartolome Perez Quijana, Lieut. Col. of Infantry of Asturias Regiment, commissioned as Governor of Comayagua and Commandant General of the Province of Honduras.

DON CARLOS, etc.: Whereas in consideration of your merits and services, Lieutenant Colonel Bartolome Perez Quijana, etc., by my decree of December 19 of last year I have conferred upon you the

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government of Comayagua and Province of Honduras, together with the military command thereof, in the Kingdom of Guatemala, which office is vacant by expiration of the term for which Jose Sanz de Bahamonde was appointed, with the same salary of 3,000 ps. a year, which the latter received, and with the condition that in military matters you are to be subordinate to the Governor and Captain General of the aforesaid Kingdom. * * * You shall faithfully serve the aforesaid office of Governor of Comayagua and the military command thereof. * * * And after you have qualified, I command the said my President and Oydores (of the Audiencia) to have and to hold you as such *Governor and Military Commander of the aforesaid Province of Comayagua*, * * * I likewise order said tribunal (Audiencia) and the other Ministers, Judges, and Justices of the aforesaid Provinces of Guatemala to recognize you as such *Governor of Comayagua and Military Commander of Honduras.*

Madrid, March 14, 1769.

(Signed) THOMAS ORTIZ DE LANDASURI.

No. 8.

To the Provisor and Vicar General respecting the absence of Ministers who know the native tongue in this Bishopric. Consulting his Illustrious Highness, the Vice-patron of the Kingdom in respect hereto, transmitting the original to him and keeping a certified copy.

Signed. RAMIREZ.

In answer to your Highness's decree respecting the petition of the Village of San Sebastian la Hermita of this Benifice, that they get back the Minister who was formerly here, as he is the only one who understands their language, I beg to report that this village is composed of Indians, natives of the towns of Camotan, Jocotan, and San Juan la Hermita, very few of whom understand the Spanish language, excepting only the children; and, notwithstanding my previous petition that Father Antonio Aguilar should be retained here, this was not granted. I attempted to get the Indians who did not belong here, or who did not speak the language, to leave this parish and return to their respective settlements, as I could not serve them in religious matters, especially in the holy sacraments, as was the case on January 16, when an Indian woman died whose confession I could scarcely understand; notwithstanding, I could not get them to remove, because in the new poll tax of the said village of La Hermita all of these Indians had registered and paid the poll tax, and they continued to remain there. They make no effort to speak the Spanish language; and, in fact, they can not speak it, and what little they do speak entails great effort and is unintelligible. Among them are

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some Indians who totally ignore Spanish, and this is the case also in some families in this village; all of which information I convey to Your Excellency for such purposes as you may deem advisable.

God keep Your Excellency, etc.

Ocotepeque, Feb. 16, 1777.

(Signed) MIGL. MARTIN RAMIREZ.

Decree issued and order signed in accordance with the above by Juan de la Rosa Ramirez, Provisor and Capitular Vicar General of this Bishopric, at Comayagua, March 4, 1777.

(Signed) PEDRO DE BETANCOURT,
Notary Public.

A certified copy issued in accordance with the above at Comayagua, March 5, 1777.

No. 9.

Sept., 1779—526 ps.—On the Estate of Santa Ana—District of Ocotepeque—Religious annuities in favor of the parish of Ocotepeque (Royal coat of arms of Carlos the Fourth on stamped paper).

Know all men by this public instrument and annuity, that I, Marcos Ximenes, a resident of this jurisdiction, in the District of Ocotepeque, do hereby declare that, having purchased from J. P. H. Manuel Lopez, of the same district, an estate known as Santa Ana, together with its buildings and appurtenances, as set forth in the deed of sale executed by the vendor, on the condition thereof that the acknowledgment should be sought of a religious charge amounting to 526 ps. principal in favor of the priests of Ocotepeque, constituting an encumbrance on said lands, composed of 8 caballerias and cords, in accordance with the royal patent which is in my possession * * * and in fulfilment of this condition, I apply to the *Judge of Religious Annuities of this jurisdiction*, in order that, having obtained the consent of the said judge and satisfied him regarding the security of the mortgage which I offered, I be permitted to enter into possession of said property, and that the same be made a matter of record, for which purpose the court should issue me a license in the ordinary form, which the court did, in the following manner:

"We, Father Santiago Garcia, His Majesty's Vicar and Ecclesiastical Judge for the District of Gualcha, and Chief Commissary of Ecclesiastical Annuities of the *Bishopric of Comayagua*, etc.—whereas we have received a petition of the following tenor: 'To the Judge of Religious charges * * * Ximines of the Province of Chiquimula of the archbishopric of Guatemala, and now a resident in the *District of Ocotepeque, of this jurisdiction* (Comayagua) in due form of law appear before Your Honor and state that I have purchased from Lopes * * * the estate belonging to him named Santa Ana, for the sum of * * * which estate is in said District of Ocotepeque and is encumbered by a religious annuity belonging to the priest of said district amounting to * * *

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situate on the lands of the said estate composed of eight caballerias and cords measured and composed with His Majesty as appears from the Royal title deed which is in my possession * * * wherefore I, the said Judge, and after reading a communication from the Chaplain did order as follows: There is hereby granted license in accordance with the contents of the petition for the execution of the principal application therein mentioned and copy thereof shall be filed in this court. * * * We further grant license to the said Ximines, petitioner, to appear before the *Lt. Govr. of this jurisdiction*, and execute the mortgage application and acknowledgment * * *. Done at this city of *Gracias a Dios*, September 13, 1792—Signed Joseph Santiago Garcia—By order of the Judge of Religious Charges—Ramon Garcia de Jalon * * * and as further security for the principal of the aforesaid religious charge I hereby create an express mortgage on the property and improvements theron which I have purchased on the above estate. Gracias a Dios, Sept. 12, 1770.' (Here follow signatures.)

"The foregoing is a copy of the original instrument of which mention has been made, with which original it was compared and found correct * * * and I hereby interpose my authority and judicial decree in order that this instrument may have full faith and as well in as out of court * * * the day, year, and month above mentioned.—Signed Miguel Machado," etc.

No. 10.

(Written on stamped paper with the Royal coat of arms of Carlos the Fourth.)

To the Fiscal (Solicitor-General) Estevan, Josef Martines et al. Natives of the Village of Copan Mountain, respectfully allege that Domingo Claros, who was Governor of the new village and mountain aforesaid, having died there is no one to administer justice, protect and look after the welfare of the residents thereof, and although we have sought for some one to fill that office with the necessary qualifications, we have found no one else but Vicente Lopez y Carlos, who has all of the qualifications aforesaid, and has been acting as such at the request of all of the inhabitants thereof; and we do hereby pray that Your Excellency be pleased to issue to him the corresponding commission. Wherefore we pray that, having before you the commission issued to Domingo Claros, deceased, and the certification which we also accompany herewith, Your Excellency will be pleased to issue a similar commission in favor of said Vicente so that he may govern us and administer justice and look after the welfare of that village and mountain, all of which will be in our interest, etc.

A decree was issued and signed in accordance with the above petition by His Excellency, the President, Governor, and Captain-General of this Kingdom, dated New Guatemala, May 5, 1784. Signed Joseph Manl. de la Parte.

(Here follows the approval of the above by the Solicitor-General, dated May 8, 1784.)

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No. 11.

National Archives of Honduras.—Jesus Velasques, Custodian of the National Archives, being duly authorized, hereby certifies that in the Royal book for the entry of the rescripts and grants, and other records to be copied and noted for the use of the Royal Exchequer of Comayagua, which was commenced on September 1, 1787, and now in the custody of this office, there is the commission of which the following is a literal transcript:

"Commission to the Governor-Intendente.

"Don Carlos, By the grace of God, King of Castile, Leon, Aragon, etc., in conformity with the resolution of my august Father in his Royal decree of February 23d of last year, I have appointed you, by another decree of the 7th inst., Alexo Garcia Conde, First Lieutenant of my Royal Spanish Infantry Guards to the *government and Intendencia of the Province of Comayagua*, made vacant by the promotion of Colonel Juan Nepomuceno de Quesada. * * * By these presents I do command, and by this my Royal Commission, I do hereby elect and appoint you the said Alexo Garcia Conde as such *Governor and Intendente of Comayagua, and Commandant-General of the Province of Honduras*, in order that you may fill these offices for a period of five years or less should such be my will * * * and we do command all the inhabitants of that Province, of whatever state or quality to have, hold and receive you as such Governor Intendente, and Commandant-General of said Province, and that you be permitted to exercise these offices as and in the manner of your predecessor, the said Juan Nepomuceno de Quesada. * * * Dated Madrid, March 31, 1789. I, the King."

No. 12.

National Archives of the Province of Honduras.—Jesus Velasques, Custodian of the National Archives, being duly authorized, hereby certifies that in a docket of ancient documents which is in the custody of this office, there is one, of which the following is a literal transcript:

DON CARLOS: By the grace of God, King of Castile, Leon, Aragon * * * whereas the venerable council of the *Holy Cathedral Church of the City of Comayagua* has represented to the President, Governor, and Captain-General of the Kingdom of Guatemala the necessity for additional ministers in said diocese to attend to the spiritual welfare of the faithful in said parish, and as an emergency measure my said President assigned to the Convent of La Merced of this capital, the *parish of Intibuca* in order that the provincial minister should propose suitable persons to fill said offices temporarily * * * wherefore, in order that provisions heretofore made by me shall be fulfilled, and in accordance with my said President, Governor, and Captain-General, I issue these presents, whereby I elect, present and appoint for the service and administration of the *parish of Intibuca in the Bishopric of Comayagua*, the Rev. Father Josef Morales in order that upon presentation of this, my appointment, he shall appear before the venerable council. * * * But this shall not be executed without the express consent of my said President, Governor and Captain-General in my royal name. * * * And he shall further secure with his synod or to the satisfaction of the *Treasurer of the Holy Crusade of said Bishopric of Comayagua* the amount of * * * and I request and charge the Rev. provincial Father who may now or hereafter serve the said convent of La Merced of Guatemala and the *venerable*

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council and Governor and Capitular Vicar of said Bishopric of Comayagua to *have and hold him as such priest of the aforesaid benefice of Intibuca.* * * * Dated, New Guatemala, December 23, 1788. Signed Josef Estacheria. Registered Diego Peinado, Chancellor.

No. 13.

General Archives of the Indies—Section 101—Case 1—Docket 9, 1791.

Letter of the *Bishop of Comayagua* informing His Majesty of the terrible condition of his vassals for spiritual administration, and accompanying a plan of the parishes in his diocese and of the towns and the distances between them, the rents, revenues, associations, annuities, churches, etc.; and royal rescripts issued which show that the Bishopric and intendencia of Honduras had the same territorial jurisdiction, dated Comayagua, October 20th.

SIRE: Towards the end of the year '88 I took possession of this Bishopric, having entered through the Royal port of Trujillo, to take pastoral charge of the diocese, for which I was appointed by Carlos III (R. I. P.), Your Majesty's most worthy father * * *. Accordingly, Sire, I considered the most appropriate course to pursue and decided to effect a general visit of my Bishopric, which I commenced on May 2 of '89 at the town of Tegucigalpa * * *.

It is notorious, Sire, that the area of this Bishopric is almost equal to that of the whole of Spain, and that there are in it only 35 benefices or parishes, and consequently that each of these has a district proportionately large * * *. May God keep your Royal Catholic Majesty many years, etc.

Comayagua, October 20, 1791.

(Signed) FERNANDO, *Bishop of Comayagua.*

Parish of the Sagrario of Comayagua * * *.

Number of churches, 3.

Number of souls in the parish, 10,444.

Number of persons confirmed on my pastoral visit, 1,407.

Tax paid to your majesty, 34 p. 2 r.

Names of the towns and valleys in this parish which are inhabited by its parishioners and distance of each from the parochial seat:

	Distance from seat.
Towns—	
Comayagua, seat.	
San Antonio	4 leagues.
Opoteca	5 "
Valleys—	
Mariani	6 "
Rancho grande	11 "
Potrero	2 "

Parish of the Caridad, situate in the city of Comayagua.

Souls in the parish, 86.

Confirmations: The number of these is included in those of Comayagua above.

Tax paid to Your Majesty, 43 p.

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Names of the towns where the parishioners dwell and distance from this city, which is the parochial seat:

Towns—

Caridad, seat.	Distance.
Peto	½ league.

Parish of the city of San Pedro de Sula.

Churches, 3.
Souls in the parish, 357.
Tax paid to Your Majesty, 39 p. 7½ r.
Names of the towns and valleys where the parishioners of this curacy dwell and where the parish priest attends to the administration of the holy sacraments of penitence and extreme unction, and number of leagues distance from the seat where the parish priest resides:

Towns—

City of San Pedro, seat.	Distance.
Candelaria	4 leagues.
Ticamaya	6 "

Valleys—

Carmen	2½ "
Santa Lucia	1½ "

This is a faithful copy of the data taken by His Eminence, Father Fernando de Cadinanos, bishop of this diocese, on the visit which he made to said parish, which he caused to be extracted in order to remit the same to the Supreme Council of the Indies, all of which I certify.

Comayagua, October 20, 1791.

(Signed) FRANCO XAVIER LOPEZ. (Rubric.)

(There is a similar certificate at the end of the description of each parish.)

Parish of the city of Olanchito.

Churches in the parish, 1.
Souls in the parish, 1,354.
Confirmed on my pastoral visit, 591.
Tax paid to Your Majesty, 33 p. 4 r.

Parish of Gracias a Dios.

Number of churches, 6.
Confirmations, 1,098.
Souls, 4,262.
Tax paid to Your Majesty, 86 p.

Towns—

Gracias, seat.	Distance.
Talgua	8 leagues.
Lepeira	8 "
Laiguala	5 "
Mexicapa	½ "

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Valleys—	Distance.
Mepocote	3 leagues.
Auricumque	6 "
Las Flores	5 "
Guarapi	5 "
Talnete	9 "
Meseora	8 "
Campuca	4 "
Maitum	12 "
Los Ranchos	12 "

Parish of Tegucigalpa.

Number of churches, 8.
Number of souls in the parish, 5,431.
Confirmations, 1,586.
Tax paid to Your Majesty, 114 p.

Towns—	Distance.
Tegucigalpa, seat.	
Pueblo Avajo	¼ league.
Tamara	6 "
Amarateca	6 "
Valleys—	
Rio Hondo	6 "
Serra del Chile	2½ "
Savana Grande	2 "
Inyapa	2 "
San Salvador	2½ "
Santa Rosa	3 "
Potrero	4 "
Yaguasire	4 "
Mateo	4 "
Guasirique	4 "

Parish of Choluteca.

Number of churches, 7.
Number of souls in the parish, 3,856.
Confirmed on my pastoral visit, 866.
Tax paid to Your Majesty, 166 p. 2 r.
Names of the towns and valleys:

Towns—	Distance
Choluteca, seat.	
Mineral del Lorpus	6 leagues.
Ticaragua	7 "
San Andres de Oroculna	8 "
Sinaca	7 "
Tusguare	2 "
Namasiguet	3 "
Valleys—	
Guasanto	13 "
San Judas	7 "
Santa Lucia y Maderas Negras	8 "
Colon y San Marcos	20 "
Morotica	14 "
Mineral de San Martin	7 "

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Parish of Manto.

Number of churches, 5.
Number of souls in the parish, 4,690.
Confirmed on my pastoral visit, 2,607.
Tax paid to Your Majesty, 96 p. 6 r.

Parish of Sonaguera.

Number of churches in the parish, 2.
Number of souls in the parish, 833.
Confirmed on my pastoral visit, 98.
Tax paid to Your Majesty, 15 p. 4 r.

Parish of Guascoran.

Number of churches, 3.
Number of souls in the parish, 2,147.
Confirmed on my pastoral visit, 1,367.
Tax paid to Your Majesty, 107 p.

Parish of Ojojona.

Number of churches in the parish, 3.
Number of souls in the parish, 2,700.
Confirmed on my pastoral visit, 567.
Tax paid to Your Majesty, 76 p. 5 r.

Parish of Cerguin.

Number of churches, 8.
Souls in the parish, 6,029.
Confirmed on my pastoral visit, 2,168.
Tax paid to your Majesty, 97 p. 4 r.

Parish of Texiguat.

Number of churches, 2.
Number of souls in the parish, 4,829.
Confirmed on my pastoral visit, 1,155.
Tax paid to Your Majesty, 92 p. 4 r.

Parish of Cantarranas.

Number of churches, 4.
Number of souls in the parish, 4,397.
Confirmations, 986.
Tax paid to Your Majesty, 106 p.

Parish of Sensenti.

Number of churches, 8.
Number of souls in the parish, 4,384.
Confirmations, 1,932.
Tax paid to Your Majesty, 94 p.

Parish of Tencoa

Number of churches in the parish, 10.
Souls in the parish, 3,582.
Confirmations, 1,000.
Tax paid to Your Majesty, 57 p. 6½ r.
(List of villages, etc.)

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Parish of Petoa.

Number of churches, 2.
Number of souls in the parish, 2,500.
Confirmed on my pastoral visit, 663.
Tax paid to Your Majesty, 35 p. 3½ r.

Parish of Yoro.

Number of churches, 2.
Number of souls in the parish, 2,091.
Number of confirmations on my pastoral visit, 1,020.
Tax paid to Your Majesty, 65 p. 4 r.
Names of the towns and valleys with the distance where dwell the parishioners and where the priest administers to them the sacraments of penitence and extreme unction in articulo mortis:

	Distance.
Towns—	
Yoro, seat.	
Tocon	10 leagues.
Valleys—	
Tlapa	7 "
Liniano	4 "
Tunca	4 "
Trinidad	4 "
Tocomapa	4 "
San Isidro	5 "
Testanguaque	3 "

Parish of Chinada.

Number of churches, 6.
Number of souls, 1,590.
Confirmed on my pastoral visit, 756.
Tax paid to Your Majesty, 60 p. 3 r.
Names of the towns and valleys wherein reside the parishioners of this parish and where the priest attends to administer the holy sacraments of penitence and extreme unction, and number of leagues distant from the seat, which is where the priest resides:

	Distance.
Towns—	
Chinada, seat.	
Yarula	2 leagues.
Tocoara	4½ "
Puringla	8 "
Masaguara	8 "
Jurla	11 "
Tenambla	11 "
Marcala	½ "
Valleys—	
Otoro	9 "

Parish of Siguatepeque.

Number of churches, 3.
Number of souls in the parish, 1,620.
Confirmed on my pastoral visit, 241.
Tax paid to Your Majesty, 12 p. 2 r.

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Names of the towns and valleys of this parish, where the parishioners dwell and where the parish priest administers to them the holy sacraments in articulo mortis, distance in leagues from the parochial seat where the priest resides:

Towns—

Siguatepeque, seat.	Distance.
Jaitique	7 leagues.
Miambar	10 "
Taulabe	1 "
San Josef	1½ "

Parish of Orica.

Number of churches, 2.
Number of souls in the parish, 378.
Confirmed, 192.
Tax paid to Your Majesty, 49 p. 7 r.
Names of the towns and valleys:

Towns—

Orica, seat.	Distance.
Agait	16 leagues.

Valleys—

Tapalo	3 "
Juarabugri	3 "
Culebra	12 "

Parish of Olua or Tiuma.

Number of churches, 2.
Number of souls of the parish, 427.
Confirmed, 4.
Tax paid to Your Majesty, 31.
Names of the towns and valleys:

Towns—

Timna, seat.	Distance.
Santiago	2 leagues.

Valleys—

Talpetate	4 "
Caracol	3 "
Jalatate	6 "

Parish of the mining district of Santa Lucia.

Churches, 2.
Souls, 1,814.
Confirmations: These are included in the number given to Tegucigalpa.
Tax paid to Your Majesty, 43 p. 2 r.
Names of the towns and valleys where the parishioners dwell and distance:

Towns—

Tataumbla, seat.	Distance.
Mineral de Santa Lucia	5 leagues.
San Antonio	4 "

Valleys—

Timamon	10 "
Rancho	3 "

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Valleys—Continued.

Jeguare	2½	leagues.
San Sorenzo	6	"
San Pedro	8	"
Roduto	8	"
Maraita	6	"
Mausaragua	11	"

Parish of Cururu.
Parish of Aguanguerique.
Parish of Intibuca.
Parish of Guaicha.
Parish of Danli.
Parish of Ocotepeque.

Number of churches, 2.
Number of souls, 803.
Tax paid to Your Majesty, 80 p. 4 r.
Names of the towns and valleys of this parish where the parishioners reside:

Towns—

Ocotepeque, seat.	Distance.	
San Sebastian	¾	leagues.

Valleys—

Sesecapa	3	"
Jute	3¾	"
San Antonio	4½	"
El Pedregal	2	"
La Labor	4	"
Cerro del Zapotal	1	"

Parish of Silca.
Parish of Sulaco.
Parish of Quesaylica.

Number of churches, 4.
Number of souls, 2,151.
Confirmed on my pastoral visit, 932.
Tax paid to Your Majesty, 51 p.
Names of the towns and valleys of this parish where the parishioners reside and distance of each from the seat where the parish priest resides:

Towns—

Quesaylica, seat.	Distance.	
Lagigua	8	leagues.
Porta	7	"
Opoa	5	"

Valleys—

El Descanso		
Los Llanos		
El Punal		
Jualjagua		
El Iquito	5	"
Juancire		
Aguafria		
La Venta		

Parish of Nacaoma.
Parish of Ajuterique.
Parish of Camasca.

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Number of churches, 3.
Number of souls, 2,571.
Confirmed on my pastoral visit, 270.
Tax paid to Your Majesty, 73 p. 1 r.

Names of the towns and valleys of this parish in which its parishioners dwell and distance of each from the parochial seat:

	Distance.
Towns—	
Camasca, seat.	
Colomoncagna	6 leagues.
Guarajambala	3 "
Valleys—	
San Juan	6 "
San Antonio	6 "
San Miguilito	1 "
El Picadro	8 "

The Fiscal (Solicitor General), commenting upon the Bishop's report, states that the 25 parishes are altogether too few in number for such a large bishopric.

Further commenting, the Solicitor General states:

"According to the general summary of the State of the diocese, it is composed of 135 towns, 231 valleys * * * The Bishop's report is required under the instructions of intendentes of New Spain, which governs in the kingdom of Guatemala, from article 57 et seq., which treat of the police power, and provide that they shall also form topographical maps of their provinces showing the boundaries of their respective parishes * * * upon all of which matters the Council shall act. March 12, 1792.

"The Council, March 14, 1792. Chamber 1st.

"Let there be added to this record a copy of the general rescript which was issued directing that priests or their deputies be established every four leagues. Rubric."

The Bishop's report was again referred to the Fiscal (Solicitor General), who advised him on the rescripts relating to compelling the inhabitants living in distant and sparsely inhabited sections to congregate in the towns and also advising the cooperation between the intendencia and bishop of the Province.

There is further action by the Council of the Indies, as shown by the following:

"Council, May 16, 1792, Chamber 1st. Let a rescript be issued to the reverend Bishop, thanking him for his zeal and charging him that in agreement with the governor-intendent he shall endeavor through whatever means he deems prudent and in the interest of the royal service and for the benefit of his Majesty's vassals, to remedy so far as possible the sad condition of the inhabitants of that province, and that a letter to that effect be written to the governor-intendent."

No. 14.

1793. Ocotepeque in Gracias a Dios Intendencia and Province of Comayagua. Proceedings had upon the petition of Pedro Antonio Figueroa, Captain of Infantry in Militia for the District of Santa

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Ana, domiciled at Metapan and residing in Ocotepeque, complaining against the residents of Ocotepeque for their lack of religion and indulgence in all manner of vices.—Year 1793.

"Résumé of Document: This is a proceeding taken by the Audiencia of Guatemala upon the petition of the military authority of the district of Santa Ana, complaining of the state of affairs of the town of Ocotepeque.

"The petition states that the complainant, a military officer in the district of Santa Ana, domiciled at Metapan and temporarily residing at 'Ocotepeque,' jurisdiction of Gracias a Dios * * *. By reason of the fact that this district is the dividing line of three provinces, malefactors etc. make it their headquarters.—This is followed by an order of the Royal Audiencia referring the matter to the Fiscal (Solicitor General) for advice. This is followed by the advice of the Fiscal that the matter be referred 'to the superior government to which it may correspond.'

"The Audiencia then refers the complaint to the Province of San Salvador. The governor and intendent of Salvador returns the papers to the Audiencia, stating that 'the said town of Ocotepeque is not in the jurisdiction of this intendencia (San Salvador) but in that of Comayagua, to which jurisdiction the district of Gracias belongs, as stated by the said complaint himself * * *."

The Audiencia then, under date of February 20, 1794, transmits the papers to the Intendente of the Province of Comayagua. The intendente of Comayagua then refers it to his Asesor (legal adviser) of the province for an opinion. The legal adviser in an opinion addressed to the governor-intendente of Comayagua, states that it is necessary that the complaint shall name the malefactors and the offenses which they have committed and comply with other formalities in order that action may be taken.

The matter is then referred to the Lieutenant-Subdelegate of the governor-intendente of the *district of Gracias a Dios*, who returns the papers to the governor-intendente of *Comayagua* with the statement that the town of *Ocotepeque* is in the jurisdiction of the ordinary *alcaldes* (mayors) of the new town of *Sensenti in said district*, to whom the matter should be referred.

The intendente of *Comayagua* then returns the papers to the subdelegate of *Gracias a Dios*, commissioning him to make the investigations, the latter in turn commissions Francisco Molina, a resident of the town of Cucuyagua, in order that the latter may proceed to the town of Ocotepeque to conduct the investigations, and the latter reported that upon his arrival at Ocotepeque the complainant was not to be found, as he resides in Salvador, for which reason special commissioner Molina returns to Cucuyagua.

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No. 15.

Written on stamped paper with the royal coat of arms of Carlos the Fourth.—1797–1798.

EXCELLENCY: Atanacio Reyes and Faustino Senteno, Indian and half-breed residents of *San Antonio del Descanso in the jurisdiction of Comayagua*, respectfully state that it is in the interest of our community that we have a certified copy of the record made, and the time of His Excellency Matias de Galvez, your predecessor, regarding the creation of *Nuevo Pueblo and Jigua*, wherefore we pray Your Excellency to please order that said copy be issued, all of which is in accordance with justice, etc. (Here follow signatures.)

Royal Palace, February 14, 1798.—Notice to the Oidor-Fiscal that the petition be granted.—Signed Juan Hurtado.

At New Guatemala on February 16, 1798, I, the undersigned clerk, notified the Oidor-Fiscal of the foregoing superior decree and His Excellency signed the same and accepted service of said notice. Signed J. P. H. Rodriguez Carballo, Clerk.

On February 16th, '98, I, the clerk, served notice of the above order on the two parties in interest who did not sign, as they are unable to write. Signed J. P. H. Rodriguez Carballo, Clerk.

On the 17th inst. the certified copy was issued on stamped paper.

No. 16.

General Archives of the Indies.—Year 1800.—Data regarding the San Juan River.—Islands adjacent to the coast of the Mosquitoes—Provinces and Districts of the Kingdom of Guatemala.—Description of Port of Blue Fields of the Province of Nicaragua, etc. * * * In the Kingdom of Guatemala there are four intendencias, 39 subdelegations, 4 posts or military and political governments, 3 corregimientos and 7 alcaldias mayores * * *. The number of parishes and villages are as follows:

In the Archbishopric, 135 parishes, 436 villages.

In the Bishopric of Nicaragua, 48 parishes, 107 villages.

In that of *Honduras*, 33 parishes, 123 villages.

In that of Chiapa, 40 parishes, 108 villages.

Total, 244 parishes, 774 villages.

The places or military posts of *Omoa*, *Trujillo*, Peten, *Golfo Dulce*, and San Carlos, where there are Royal Chaplains, are not included, neither are the new reservations of half-breeds and Indians annexed to ancient parishes.

In the period from 798 to 802 there were exported for Cadiz through *Golfo Dulce of Honduras*, in registered vessels, the following * * *.

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At the same time he commissioned engineers Joaquin Isasi and Josef Alexandre, together with Colonel Ignacio Maestre, who was the Commandant of *Omoa*, to investigate whether the lagoon communicated with the South Sea. * * * Further particulars regarding the Provinces and Districts of the Kingdom of Guatemala and their respective products. * * *

Guatemala, the Capital and its Archbishopric, cotton goods.

Chiquimula, cotton threads and some silver.

Comayagua Bishopric, cattle.

Gracias, tobacco and a little indigo.

Tegucigalpa, silver.

No. 17.

General Archives of the Indies, Section 100, Case 3, Docket 11.

1804.

Report of the general visit which the *Governor Intendente of Honduras* made throughout the seven districts of which the intendencia is composed, addressed to His Majesty through the Department of Grace and Justice.

It includes a physical, political, and geographical description, statistics, products, etc., of each of the provinces.

Accompanying this report there are several documents, among them No. 8, which contains a small map, and No. 9, which is a census of the population in 1801.

"The *Governor Intendente of Comayagua* herewith submits to your Excellency a report of a general visit made by him throughout his Province for the King's information, and requests in compensation thereof that he be permitted to return to Spain:

"EXCELLENCY: I herewith submit to your Excellency the enclosed report of my visit throughout this Province in order that you may be pleased to transmit it * * * to the King, together with that relative to Indian reservations which should accompany it, which latter is already under consideration by the principal council of the Indies. * * * God keep Your Excellency many years. Guatemala, October, 1804. Signed Ramon de Anguiano (Rubric). To His Excellency Don Joseph Antonio Caballero."

Report of the general visit throughout the *Province of Honduras* in the Kingdom of Guatemala, made by the Governor Intendente and Commandant General, Don Ramon de Anguiano, addressed to His Majesty through the Department of Grace and Justice. Year 1804.

SIRE: * * * Don Ramon de Anguiano, *Governor Intendente of the Province of Honduras*, lays at the feet of Your Majesty the result of his visit *in compliance with the laws and royal ordinances*, effected in part by commissioners appointed in those districts which he could not visit in person on account of the roughness of the country, other official duties, and illness which he underwent, the Governor, however, being fully and sufficiently informed so

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as to render to Your Majesty a faithful report of the present state of his dominions and other details. * * *

This Province is situate in the Kingdom of New Spain, its boundaries *being the coasts of the north, northeast, and northwest in the Gulf of Honduras.* Its longitude and latitude is as well known as its boundaries with the other provinces of this kingdom. In addition to the capital district and establishments on the coast, it consists of seven subdelegations. Its territory, which is well wooded, contains an area of 4,500 geographical square leagues, equivalent to about 16,000 native leagues of 5,000 Castilian varas, and contains approximately 130,000 inhabitants, composed of Indians, half-breeds, and Spaniards, distributed among 249 large and small settlements, as shown in the statement at the end hereof marked No. 9. * * * Tobacco, although excluded from commerce, grows in all sections without special cultivation, and consequently it is very difficult to create a monopoly of this product in such a large province, for which reason it would be advisable to establish some factories (such as that of *Los Llanos in the District of Gracias*) in order that all might cultivate it for the benefit of the royal exchequer. * * *

It must be noted that the principal commercial products hereinabove mentioned are found near the water's edge very near the sea, or near the river's edge, which empty in the north and flow from the districts of Yoro, Olancho, Olanchito, San Pedro, and Tencoa. * * *

In order that perfect metal should not be lacking, there was discovered about six years ago mercury in abundance at Cucuyagua (District of Gracias a Dios) * * *

As very precious objects of the animal and mineral kingdom * * * there are to be found in the north coast tortoise shell in abundance, and I am assured that purpura may likewise be found at *Omoa* * * * Here follows a description of the District of Comayagua, subdelegation of Tegucigalpa, subdelegation of Gracias a Dios, subdelegation of Tencoa, subdelegation of San Pedro, and subdelegation of Yoro * * *

Subdelegation of *Olancho.* This district is the largest and most extensive of the whole Province * * * Its capital city is the Village of *Manto* * * *

Subdelegation of *Olanchito* * * * It is situate fifty leagues northeast of Comayagua and is twenty-two leagues from the Port of Trujillo * * * military district and subdelegation of *Puerto de Trujillo.* The city of this name which is the capital city of this district situate * * * on the north coast in Honduras Sea. * * *

* * * The Governor's report concludes with various recommendations, among others the following:

* * * (2) In order to comply with the provisions of Articles 57 and 58 of the Royal Ordinance, I made it a point from the beginning to get all the information possible regarding the local situation of this Province and its districts * * *

(3) Another matter to which I devoted attention principally was the settlement of the establishment on the north coast, but since the beginning my representations in these matters were not well received by the Superior Board and Captaincy General here my jurisdiction in all matters relating thereto having been denied me, I have been obliged to make representations to Your Majesty at various times in order that I might be relieved of all responsibility therein. I hereby again humbly submit these representations to Your Majesty, because the rescripts which I receive from the Supreme Council and the orders from

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Your Majesty transmitted to me in confidence, in which I am treated as the Chief and responsible for said establishments, lead me to believe that my representations have not reached Your Majesty's throne.

(4) The royal patrimonies of Your Majesty in this Province are the rich and abundant mines which are to be found at every step in all parts of the Province * * *

Comayagua, May 19th, 1804.

Sire: At Your Majesty's royal feet. Signed Ramon de Anguiano (Rubric).

Most Illustrious Sire and Gentlemen of the Superior Board: Don Ramon de Anguiano, Governor Intendente of this Province of Honduras, informs Your Excellencies that he has made the official visit to its seven districts, including the coast and port of Trujillo * * *

Between the District of Yoro, Comayagua, San Pedro, Sula, and Tencoa, there is a portion of wooded land belonging to Yoro * * * Said land is bounded on either side by the rivers named Cuero and Ulua * * * Comayagua, July 1st, 1798.

The population of the Province of Honduras according to the registration of the year 1801 * * * capital district of Comayagua * * * subdelegation of Tegucigalpa, Tenencia (lieutenancy) of Danli * * * Tenencia of Zedros * * * Tenencia of Nacaome * * * Parish of Nacaome, Guoscoran, Pespire * * * Tenencia of Choluteca * * * subdelegation of Gracias a Dios * * * Parish of San Antonio del Descanso, Barrio (ward) del Copante de San Augustine, Village of Yortibuca * * * Indian villages, parish of Yutibuca R., Camasca, Quesailica R. * * * Tenencia of Sensenti * * * San Andres mines, Labor de Santa Lucia. Jute, Copan valleys, parish Ocotepeque R. * * * subdelegation of Chinda * * * subdelegation of Tencoa with 2,900 inhabitants, Spaniards and half-breeds, and 1,714 Indians. Town of Santa Barbara * * * Parish Tencoa, Alima, Posta. * * *

NOTE: In addition to the above reservations there are eight valleys, whose inhabitants have been ordered to consolidate, namely, Sacapa, Palaja, San Nicolas, Lacualpa, Seguaca, Gualjoco, Sesecapa, and Tamagasape, which contained one hundred and forty-one families of Spaniards and 129 of half-breeds. * * *

Indian villages as follows: Ylametepeque, Chuchutepeque, Celilaca, Xalapa, Nacholoa, Gualala, Yamala. Ojuera, Posta R. * * * subdelegation of Olancho. * * * subdelegation of Yoro * * * subdelegation of Olanchito * * * subdelegation of Trujillo * * * Comayagua, May, 1st, 1804. Signed, Anguiano (Rubric).

His Majesty's Solicitor General, upon examining the report of the general visit throughout the Province of Honduras in the Kingdom of Guatemala, made by the former Governor Intendente Don Ramon de Anguiano, and the further reports thereon contained in the opinion of the General Auditor, states that the Governor's report relates to many points, some of which are being considered under separate headings, and others correspond to his successor Don Juan de Tornos * * * regarding the cigar factory in the *District of Gracias a Dios*, which is the first mentioned by Anguiano, the Auditor-General's opinion relates to the demonopolization of this industry. * * *

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On the second point with which he deals, namely, that of the mercury mines at *Cucuyagua*, further hearings are necessary. * * *

Furthermore, Anguiano dwells on other points * * * The capital of Comayagua, on account of its unsanitary condition, be transferred to the District of *Tencoa*. * * *

Regarding the segregation of Trujillo from that intendencia, and its inclusion in the general subdelegation of Guatemala by reserved orders of which he also treats, proper orders have already been given for its return to the jurisdiction of Comayagua, as a result of the consultation made by the Council in connection with the matter of the Portuguese Bacasta * * * Madrid, March 30th, 1819.

In council.—For its convenience and use, there was transmitted to the Council with the Royal Order of the 13th, the report of Intendente Don Ramon de Anguiano relative to his visit in the Province of Honduras * * * Inasmuch as the various points considered by him relate some to matters of war, others to matters of grace and justice, and still others to matters of state and finance, he respectfully reports all those branches shall be consulted and the Auditor General and Solicitor General shall make their recommendations thereon. * * *

First: The intendente states that very fine tobacco grows wild in most of the districts of the Province, and he therefore recommends the establishment of a factory similar to that of *Los Llanos in Gracias a Dios*. * * *

Second: Regarding his suggestion that by order of the Governor, experts shall examine and report upon the mines at *Cucuyagua in the District of Gracias a Dios*, the Auditor General deems it most advisable that an order be issued to the Captain General of Guatemala to examine into this matter at the earliest moment, and for that purpose to appoint an expert to inspect the mines and make tests of its ores.

Tenth. Anguiano also mentions several other points, and especially urges the transfer of Comayagua to the District of Tencoa * * *. That for the purpose of increasing commerce, an expert be appointed to make navigable the river *Ulua*, *Chamelecon*, or other river for merchant ships. * * * The Solicitor General concurs in this view, and with respect to the transfer of Comayagua states that a separate investigation is being made. * * *

Eleventh. Finally, he treats of the segregation of Trujillo from that intendencia and its annexation to the general subdelegation of Guatemala. * * * These are the points with which Anguiano closes his report, and with respect thereto the Solicitor General states that upon consultation with the Council in the matter of the proceedings regarding the Portuguese Bacosta, it was decreed by reserved orders that Trujillo should return to the jurisdiction of Comayagua.

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No. 18.

General Archives of the Indies-Seville.—Audiencia of Guatemala.—Appointments of Captains General, Governors, Military Commanders, and Intendentes.—Years 1605 to 1821.—Section 100, Case 3, Docket 2.

Commission issued to Juan Antonio de Tornos y Cagigal as Governor-Intendente of the City and Province of Comayagua, October 14th, 1811.

Fernando VII, during his absence and captivity, the Council of the Regency, authorized provisionally by the General and Special Cortes, in consideration of the services and qualifications of Juan Antonio de Tornos y Cagigal, Captain of my Royal Navy, I did, by my Royal decree of September 16th ultimo, confer upon you the *military and political government and intendencia of the City and Province of Comayagua, etc.*, in the Kingdom of Guatemala, which offices have become vacant by reason of the resignation of Brigadier Miguel de Castro y Ardoz, who had been selected for said posts. Therefore, it is my will, that you shall forthwith exercise the offices of Governor-Intendente for a period of five years, or a sooner termination at my pleasure. Said period shall commence to run from the time when you shall take possession of said offices, and *you shall exercise the same according and with the same jurisdiction and powers as your predecessors, as well in military matters as in civil and criminal, and in matters appertaining to my Royal Exchequer.* * * *

Dated Cadiz, October 14th, 1811.

(Signed) I, THE KING.

No. 19.

To the Priest and Vicar:

Ubaldo Hernandez, natural son of Dionicia, a resident of *Minas de San Andres*, appear before your Reverence, and state that in order to better serve God, I wish to contract matrimony with Bonifacia Moreno, legitimate daughter of Juan Pasqual and Margarita Fuentes, who reside in the same place * * *.

(The petition goes on to state that the parties are related in the third and fourth degrees of consanguinity and pray for the necessary dispensation of the Church.)

Then follows the deposition of the parents of the contracting parties and other witnesses taken at Cucuyagua, and the transmission of the record to the Bishop of Comayagua, who issued the following decree:

Comayagua, May 19th, 1820. Upon reading the above record and considering the causes therein alleged as sufficient, and the same having been approved by the Parish Priest in his report, dispensation is hereby granted for the impediment of third and fourth degrees of consanguinity existing between the contracting parties, and they are granted permission to contract a valid mar-

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riage, and the Parish Priest is hereby vested with discretion and authority to impose such penance upon the parties as in his judgment may be advisable, and for which purpose let the proper communication be issued.

(Signed) JOAQN AUGUSTIN FIALLOS.

No. 20.

Jesus Velasquez, Custodian of the National Archives (Honduras), being duly authorized, hereby certifies that among the dockets and records in the custody of this office there is one of which the following is a literal translation:

"At the Plaza San Fernando de Omoa, June 28th, 1822, before me, Franco Cascara, Sergeant-Major Veteran Commandant Principal Political Chief and Sub-delegate of the National Treasury, aforesaid place, and the witnesses hereinafter mentioned, appeared Rosa Prieto and Juana Banta Coto, residents hereof, personally known to me, and the former stated that having no house in which to live because the one where she formerly lived had burned down * * * and being desirous of taking care of what little property she possesses in the farm called Cuyamel, on National lands and within the district of this place * * * for which reason she has decided to move to the Plaza Trujillo as the founder of said Colony * * * For which reason, in the exercise of her own rights and interest and those to which she is entitled by law as the sole executrix and tenant and as guardian of her aforesaid daughters, under the last will and testament of her deceased husband * * * she does hereby, acting for herself and in behalf of her children, heirs and successors, sell and convey forever to the said Juana Coto the properties hereinabove mentioned, and hereinafter mentioned, for the sum of * * * And Juana Banta Coto, the purchaser, stated that she acknowledges the receipt to her entire satisfaction of the aforesaid properties for which she paid cash. * * *."

The foregoing is a true copy of the original to be found in the Archives of this post under my temporary charge.

Dated Omoa, 2/28/1822.

(Signed) FRANCISCO CASCARA.

No. 20—Bis.

Extracts from the Ecclesiastical Documents found by Edmundo Lozano A in the Ecclesiastical Archives of Comayagua.

1787.

Record of matrimonial proceedings had by Lazaro Zelaya shows that he is free to contract marriage with Anna Maria Dubon, both residents of *Petoa*. There is a marginal note as follows:

"*Petoa*, November 2, 1787. Let the petitioner present to the Vicar the witnesses who offer to produce the necessary information, and this done let the record be transmitted to the Provisor and Vicar General who will make such disposition as may best serve God our Lord.

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"Lazaro Zelaya, a native of Gracias a Dios, residing in this District of *Petoa*, respectfully appears before your Reverence and states that the better to serve God I desire to contract matrimony with Anna Maria Dubon, legitimate daughter of Manuel Dubon and Lucia Rios, parishioners of the Church of Petoa, to whom I am engaged to be married. * * *."

(Here follows a statement to the effect that he is related to his fiancé by affinity, and praying for the ecclesiastical dispensation of this impediment.)

The following marginal note:

"A decree in accordance with the above petition was made and signed by his Reverence Antonio Gomez de Aleman, Acting Parish Priest, the Vicar and Ecclesiastical Judge of this District of Petoa on the same date."

(Signed) ANTONIO GONZALES, *Notary.*

Here follows the depositions of the parents and witnesses taken before the aforesaid Ecclesiastical Judge and Notary, and the recommendation of the Ecclesiastical Judge that the petition be granted upon the performance of certain penances by the petitioner, to be fixed by the Vicar General.

The Vicar General decreed as follows:

Upon reading the record and foregoing proceedings and it appearing therefrom that there exists the impediment of second degree affinity between Lazaro Zelaya and Maria Dubon, dispensation is hereby granted for the said impediment for the reasons appearing in the said record, in order that the said parties may contract matrimony, and the penance fixed for the said petitioner shall be to appear for three Church holidays and attend at the Church on the celebration of the High Mass holding a lighted candle in each hand, and make three confessions and partake of communions before the celebration of said marriage. And the Parish Priest shall impose such additional penance as he may deem advisable, and that the necessary orders be issued accordingly. Thus ordered, decreed, and signed by his Reverence, the Provisor and Vicar General of this Bishopric.

Comayagua, November 19th, 1787.

(Signed) MEDINA ANTONIO MARTIN ROSALES.

1788.

Regarding the impediment which Dionisia Santos de Amaya, of *Petoa*, declared existed when she contracted marriage with Augustin Pena, both Indians of this District, witnessed by Coadjutor Antonio Benito Medina, there is a marginal notice as follows:

Petoa. December, 1787. Upon reading the petition it is hereby ordered that the petitioner be examined and that the necessary investigation be had. Thus ordered and signed by his Reverence Father Antonio Gomez de Aleman, Acting Priest and Ecclesiastical Judge and Vicar of this District before the undersigned Notary Public.

(Signed) ANTONIO GONZALES.

To the Vicar:

I, Dionisia Santos de Amaya, respectfully appear before your Reverence and state that in the year 1786 God was pleased that I should meet with an accident, and I immediately called for the priest to make my confession as a minis-

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ter of the Sacrament of the Church, and thereupon came the Parish Priest, Father Antonio Benito Medina, and thereupon I made a confession. After hearing my confession, I informed the Priest of my engagement to one Augustin, and Father said he would celebrate the marriage. Although I thought I was dying, I refused, and notwithstanding Father performed some sort of a ceremony, although there were no witnesses present nor were there any banns, but when I got well I went to Olanchito and I never lived with Augustin. I desire to be separated from him.

This is followed by the depositions of the witnesses examined in the proceedings, including the two parties in interest and the Priest.

Then follows an order by the "Provisor and Vicar General of this Bishopric of Comayagua.

"Dated January 3rd, 1788."

1787.

Dispensation granted to Faustine Ilario de Medina to contract marriage with Rita de Amaya, Parishioners of *Petoa*.

Petoa. December 10th, 1787. Upon reading the above petition, it is hereby ordered that the said petitioner shall produce the witnesses offered.

The above decree was made and signed by his Reverence Antonio Gomez de Aleman, Vicar and Ecclesiastical Judge of said District.

(Signed) ANTONIO GONZALOS, *Notary*.

To the Vicar:

Faustine Ilario de Medina, son of Maria de Medina, residents of the Parish of *Petoa*, respectfully appear before your Reverence and state: That the better to love and serve God I intend to contract matrimony with Rita de Amaya, daughter of Juana de Amaya, a tax paying Indian of this town of Petoa, but that there exists the impediment of consanguinity in the second degree, for which purpose I request your Reverence to be pleased to take the necessary depositions and I would produce the witnesses, and I pray your Reverence to grant my petition, etc.

(Here follows the depositions of the witnesses.)

The petition was finally referred to the Provisor of Comayagua for determination, who granted the dispensation.

Thus ordered, decreed, and signed by his Reverence the Provisor and Capitular, Vicar General of this Bishopric.

Dated Comayagua, November 21st, 1787.

(Signed) ANTONIO MARTIN ROSALES.

1787.

Dispensation granted to Blas de Orellana to contract matrimony with Simona Cobos, Spaniards, and Parishioners of Gracias To the Parish Rector, Gracias a Dios, March 16th, 1787. Granted as prayed for.

(Signed) MOLINA.

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Blas de Orellana, a native of this city, the legitimate son of Captain Franco and Maria Antonia Orellana, both deceased, Spaniards, resident hereof, respectfully appears and states: That the better to serve God I desire to contract matrimony in accordance with the Holy Mother Church with Simona Cobos, legitimate daughter of Josef Patricio, deceased, and Felicana Orellana, natives of this Parish, but there exists the impediment of third degree consanguinity, as shown in the title in the margin.

Here follows an offer to produce certain witnesses in support of his petition, and a prayer that the dispensation be granted.

Pursuant to the order of the Provisor, proceedings were had by the Vicar and Ecclesiastical Judge of the city of Gracias, and the dispensation granted by a letter dated Comayagua, March 27, 1788.

1787.

Dispensation granted to Valentino Miranda to contract matrimony with Lucia Texeda, Parishioners of the City of Gracias.

To the Vicar and Ecclesiastical Judge:

Valentine Miranda, legitimate son of Santiago Miranda and Juana Calderon, deceased, residents of the Valley of *Las Flores of this Parish*, respectfully appears before your Reverence and states: For the peace of my conscience and the salvation of my soul, I intend to contract matrimony with Lucia Texeda, Legitimate daughter of Silvestre Texeda and Dionicia Miranda, deceased, of the same district, but that there exists the impediment of consanguinity in the third degree.

(Here follows the offer to produce witnesses in support of their petition and the prayer that the dispensation be granted.)

Then follows the order of the Rector and Vicar and Ecclesiastical Judge of Gracia a Dios, under which the deposition of the witnesses and parties were taken, and finally the granting of the dispensation by Augustin de Medina Balderes, Provisor and Capitular, Vicar General of the Bishopric of Comayagua, under date of October 27th, 1787.

1787.

To the Provisor and Vicar General and Chaplain:

Gaspard Chacon, a resident of *Las Llanos, of the District of Quesailique*, respectfully appears before your Reverence and states, that I intend to contract holy matrimony with Lorensa Garcia, also a resident of the same District, who is the widow of Anselmo Baustista.

The petition alleges that there is the impediment of the third degree of consanguinity, and asks that the deposition of witnesses be taken and prays for a dispensation.

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Then follows an order of the Provisor and Vicar General of Comayagua, and the depositions taken thereunder and the record then was returned to the Vicar General who granted the dispensation in the following order:

Upon examining the record and proceedings therein, dispensation is hereby granted for the impediment of the third degree of consanguinity which exists between said Gaspard Chacon and Lorensa Garcia, so that notwithstanding said causes they may contract matrimony, provided there be no other canonical impediments, and for the other causes alleged in the record a penance is to be imposed consisting of three confessions and communions, and for a period of two months he shall attend the parochial Church on Church holidays at High Mass, with lighted candles in his hands, and the Parish Priest shall impose such additional penance as he may deem advisable.

Thus ordered and signed by his Reverence Don Augustine de Medina Valderas Chtre Digd. of this Holy Church, Judge of Ecclesiastical Letters and Pious Works, Provisor and Capitular, and Vicar General of this Bishopric.

Dated Comayagua July 30th, 1787.

(Signed) MEDINA-ANTONIO MARTIN ROSALES.

1787.

Victorio Pineda asks dispensation of the impediment of consanguinity for contracting marriage with Jacinta Ramirez:

To the Vicar:

Victorio Pineda, a native of this Town of Quesailique, a legitimate son of Juan Ermengildo Pineda, and of Mazela Perez, respectfully appears before your Reverence and states that the better to serve God our Lord, and for the peace of my conscience I intend to contract matrimony with Jacinta Ramirez, a native of said Village, and the legitimate daughter of Wencalaos Ramirez and Maria Ramirez but as there exists the impediment of consanguinity in the third degree, I pray your Reverence to take the deposition of witnesses which I offer to produce and thereafter to grant the dispensation, etc., so that I may appeal to the Provisor and Vicar General of this Bishopric, and implore the grace of such dispensation, etc.

(Then follows the order of the Vicar General and the dispensation of the witnesses taken thereunder. And the final order granting the dispensation made by the Provisor of the Bishopric of Comayagua, under date of February 12th, 1787.)

1788.

Record of matrimonial proceeding of Miguel Antonio Diaz, a resident of Quesailique to Francisco Rodezno.

DEAR SIR: About a year ago I transmitted to your Parish interrogatories issued by me and the proceedings had thereunder by the Vicar of Teguzigalpa, whereby Miguel Antonio Diaz, the bearer of these presents, was unable to establish the fact that he was a Christian and unmarried, for which reason the Provisor directed me not

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to attend at this marriage until he should establish the said facts in connection with the proposed marriage; and inasmuch as this poor fellow is pursued by the judicial authorities, he is put to the grave inconvenience of appearing here at night without aid, and persisting in his former pretensions, for which purpose he has presented to me the papers, and which I herewith inclose, I write to inquire if you can suggest any remedy. God keep your Reverence many years.

Quesailique, January 15th, 1788.

Dominie hic homo signus est, etc.

JUAN ECCIMO MARTINEZ.

Proceedings were had upon the above petition and, it appearing that the petitioner had previously contracted several marriages, the petition was denied.

The Vicar General of the Bishopric of Comayagua on September 27th, 1788, granted permission to marry to J. T. and L. L., residents of Quesailique. Similar permission to marry and dispensation for various degrees of consanguinity were granted by the aforesaid Vicar General of the Bishopric of Comayagua to P. M. and L. L., under date of April 12th, 1798; to M. L. and I. R., all four residents of Quesailique. The aforesaid Vicar General of Comayogua under date of November 20th, 1815, granted dispensation to B. L. and F. F., in order that they might be married by the Priest of Cucuyaga, although the lady was a parishioner of Tejustra in the Bishopric of Guatemala.

On March 22d, 1849, the General Board of Tithes of the State awarded the tithes of Petoa and Quesailique to Jose Maria Copos, resident of San Rosa de Copan, he having been the highest bidder.

1822.

To the Vicar:

Franco, natural son of Franca Monrroy of the Parish of Chiquimula in the archbishopric of Guatemala, and a resident for the past five years of this Parish, respectfully appears before your Reverence and states: That the better to save my soul by serving God, I wish to contract matrimony in this Parish with Maria Antonia, natural daughter of Justa Caballero of this Parish, and inasmuch in order to effect this, it is necessary that I obtain permission from the Provisor and Vicar General of this Bishopric, I pray your Reverence to take the necessary depositions and to transmit the same to said Provisor in order that with the same before him his Reverence may be pleased to grant my petition, etc.

Cucuyugua, December 10th, 1822.

Let the customary proceedings be had herein and let the record be brought before me in order that I may act thereon as may be

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desirable, hereby appointing as Notary for that purpose Jose Ma Mendia.

(Signed) JOSE MARIA RIVERA.

Thus ordered, decreed, and signed by the Vicar Don Jose Ma. Riviera before the undersigned Notary, which I certify.

(Here follow the depositions of the witnesses and of the parties.)

Victor Mejia asks the Parish Priest of Cacuyagua on July 20th, 1829, to address the Provisor of the Bishopric in order to grant him a dispensation of the impediment to his marriage with Pauline Cabellero on the ground of affinity; under date of Comayagua, August 3d, 1829, an order was issued granting the said dispensation.

1829.

Jose Teodoro Cruz asked dispensation of the impediment of second degree affinity to contract matrimony with Maria Dominga Cruz, both residents of Gracias in the Bishopric of Honduras. After the customary proceedings were had thereunder, the Parish Priest reported to the Provisor of the Bishopric of Honduras that the impediments alleged by the parties are true, but that dispensation should be granted. This was under date of August 20th, 1829.

1834.

Antonio Aguyirre, a resident of Quimistan purchased at auction the tithes of *Petoa* giving as surety Jose Joaquin Mora of *Macuelis*. All of the proceedings were taken before Lino Matute, Notary Public, for the General Board of Tithes at Comayagua, March 19th, 1834.

Victoriano Castellanos, resident of the *Llanos de Santa Rosa*, bought at auction the tithes of Sensenti and Cucuyagua, giving as surety Anaceleto Madrid of Gracias. These proceedings were had before Leno Matuti, notary public of the General Board of Tithes at Comayagua, April 26, 1834.

1837.

Apolonio Lopez, resident of *Llanos de Santa Rosa*, purchased at public auction the tithes of said town. The record of these proceedings were filed with the General Board of Tithes at Comayagua, April 1, the same year.

No. 21.

Jesus Velasques, custodian of the national archives duly authorized, hereby certifies that among the documents in the custody of this office, there is one, of which the following is a literal transcript:

Omoa, July 29th, 1840.

To the Chief of the Division in Charge of the Ministry of the supreme government of the State of Honduras. The collectors of Customs at Izabal have been

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informed by the collectors of this place that inasmuch as the *Motagua River has its mouth in this state*, no charge should be made on the articles which pay duties at this port and ascend the river for the purpose of transporting them to the State of Guatemala or San Salvador, but the former have answered that they cannot accede to this, because there is a law which expressly prohibits them. All of this arises from a pure error, or if I do not deceive myself, there may be some maliciousness on the part of the first mentioned collectors. If the former is the case, they are entirely ignorant of our coast, and especially regarding the boundaries of their state, and if the latter is the case, they assume that we are ignorant of this, and they desire to take advantage of it. Yesterday a vessel arrived which could not make the mouth of the Motagua for unloading merchandise and loading grains, and the vessel had its receipt for the payment of customs duties from the collector of Izabal, so that it would be a great hardship upon merchants if they were obliged to pay customs duties twice. It has therefore seemed advisable to me to inform you of this, and to enclose a plan of the mouth of the said river so that the matter can be taken up in a friendly spirit between the two governments; and that the Government of Guatemala be notified that its collectors, when they examine merchandise shipped in this manner, are only entitled to collect two ps. for interstate shipment according to Article Third of the Decree of August 8th of last year, copy of which decree I herewith enclose, and request that you return it to this office, as we have no other copy. Although, as a matter of fact, merchandise carried by the Motagua do not go overland, they do pass for about one league through the state, from which it results that it can be considered to be interstate commerce. I do not know whether I am in error, for which reason I lay the facts before you, in order that if you see fit, you may consult the same with the Chamber or make such examination as you deem advisable. Very respectfully, yours, Jose de Zelaya.

No. 22.

Editorial paragraph from "La Semana" of Guatemala, dated October 22, 1865, which headed the "instructions to govern the Commissioner of the Governor in the demarcation of the boundary lines between the States of Guatemala and Honduras—year 1844," subscribed by Miguel Larreinaga and Alejandro Maruri.

"We recommend to the attention of our readers the interesting document which we publish below regarding the boundaries between Guatemala and Honduras. In the year 1844, when it was decided to send a commission to mark out the boundaries between the two states, the Government of Guatemala entrusted to Licenciado Miguel Larreinaga and Alejandro Maruri, the preparation of the instructions which were to govern the commissioners. Mr. Larreinaga drew the instructions, which is a most important document, in view of the abundance of interesting data which it contains relative to the principal subject and other data dwelt upon incidentally, and also because of the simple, clear, and correct style in which it is written. This work of one of our most distinguished writers, having remained without publication until now, we believe that the readers of La Semana will be pleased to know that we have brought out from

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the dusty archives and made public a document which for many reasons is worthy of interest."

No. 23.

Commandancia of Jocotan, July 12, 1851.

To the Second Municipal alcalde (mayor) of Copan.

I hereby notify you that to-morrow there will be conducted from this town to the boundary of *your state* a fugitive named Gabriel Cordova, who the Correjidor of the Department of Chiquimula is delivering at the request of the Government of said *State of Honduras* in order that you may immediately send to the *boundary line* the necessary guards for the sole purpose of receiving the aforesaid fugitive. (Signed) Salvador Nufil.

No. 24.

District of Esquipulas, April 18th, 1853, to the First Municipal Alcalde of Copan.

We have positive information that several residents of Valles, Jupilingo, Monteros, and San Jose of this jurisdiction, have removed to a portion of the farm named *Los Coyoles in the jurisdiction of C.* * * *

Estanislao Ramos is charged with the commission of a serious crime, and in order to bring him to justice I request that you please order his apprehension and cause him to he conducted under proper guard to the *boundary* line * * * (Signed) Rafael Juarez.

(This is followed by communications exchanged between the authorities of Jocotan and Cachapa relative to the estate of Pena.)

No. 25.

Office of the Governor and Commandant General of Chiquimula, July 10th, 1857.

To the Second Alcalde of Copan.

I have received in this office your official note of the 4th instant, in which you state that a person unknown to you, but who claimed to be a foreigner and spoke Spanish fluently, and who tallied with the rest of the description which you mention, holding himself out as a commissioner for the Government of Honduras, on June 16th last intercepted and caused to be shot at Torrecillos, a fugitive, whom you state you were sending for trial to the judge of First Instance of the City of Santa Rosa.

Your request has not come in due form, and for that reason it will not be acted upon in the usual manner, and I am keeping it for future use if necessary. But, being desirous that crimes shall not

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go unpunished in Honduras or in this Republic, I caused search to be made for the person you mention, and, having compared the description, and from other circumstances which render him suspicious, I am hereby transmitting him to you under proper escort, so that you may receive him on the line, and I specially recommend that you be very careful to deliver the suspect with evidence of his crime to the Judge of the First Instance of Santa Rosa. (Signed), Vicente Cerna.

No. 26.

From the First Municipal Court of the Town of Esquipulas to the First and Second Alcaldes of Casapa.

I hereby make known to you Messrs. Alcaldes that in the court over which I preside, criminal proceedings are being had against Daman Penas for the theft of two mules belonging to Pedro Molina residing in this district. * * * In this connection Alcalde Pedro Molina, of this town appeared in court and stated that having been informed that Daman Penas had passed through Jupilingo on his way from Guatemala, and that he had followed him and overtaken him at *Estanzuela in the State of Honduras*, and that meeting with the authorities of Copan, he had the latter apprehend the fugitive and placed him securely in the barracks at Cachapa. Wherefore, I have decided to issue letters rogatory to the Alcalde of your town in order that, being informed of the crime committed, you will be pleased to send the fugitive to this Court over which I preside. * * * (Signed) Juan Jose Sazastume.

(Here follows a list of the individuals residing at Tipalpa and Torrecilla, villages belonging to Honduras.)

No. 27.

" Headquarters of the Military District of the Town of Esquipulas, October 24, 1858, to the Alcalde of Copan. M. A. has appeared at these headquarters, stating that M. S., a soldier residing here, owes him the sum of $22, which he advanced to him to pay the expenses of his marriage, and that notwithstanding the time for its payment is past due the same remains unpaid, and the debtor has removed to the Republic of Honduras. Having received information that the said soldier is at the place called *Tigre Mountain in your jurisdiction*, I exhort and request you in the name of his Excellency the President of this Republic and its high powers to apprehend said soldier, and once he is in your custody to send him to me safely guarded, and in so doing you will fulfill the duties appertaining to your office. * * * God keep you many years. (Signed) Leandro Godoy."

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No. 28.

Agreement between Leon Alvarado, Commissioner for the Government of Honduras, and Mr. Jean A. de Brame, representing the Guatemala Company.

Graiosa, June 20th, 1864.

Jesus Velasques, custodian of the National Archives, being duly authorized, certifies that in the docket of treaties in the custody of this office, there is to be found one of which the following is a literal transcript:

Agreement dated Omoa, July 4th, 1864. Sir, I have the honor to inform you, Mr. Minister, that the commission which the Government conferred upon me on April 19th last has been fully complied with as I will proceed to show:

Part First:

(1) On April 28th I left Santa Rosa for the Town of Florida as the most central point from which to make my way to the Motagua. There I gathered all information and ascertained that there were four principal routes, one from Florida to Los Amates. From this point along the Espiritu Santo to La Libertad—from Maculeigo to Las Animas—from Asacualpa to Tenedores.

(2) But from such vague reports as are obtainable in such cases, it was impossible to ascertain definitely which of the four would be the most feasible, that is to say, the shortest and easiest route. * * * From the route traversed I note the following distances * * * or a total of twenty leagues.

From La Libertad I went to the canal where I stated to the company's representative, Mr. Brame, that although that concession might affect the rights of Honduras, I would not consider that subject as I had not come to discuss boundary questions; that my commission was to enter into an agreement which was made and reads as follows:

Agreement made by and between Leon Alvarado, special commissioner of the Government of Honduras, and Mr. Jean A. de Brame, directing engineer of the Guatemala Company and general representative of said company, to wit:

First. The Government of Honduras, desirous of having its citizens participate in the benefits resulting from the opening of the canal which is to join the river Montagua with the Manga Vieja (old mouth) as far as Graciosa Bay, which work the said Guatemala Company is now engaged in executing, hereby obtains the right of passage through said canal of all ships and merchandise that may desire to pass upon payment of the tolls and performance of the conditions following:

Second. Merchandise from Honduras shall pay for its passage through said canal to the Guatemala Company tolls amounting to five per cent of its value, or the equivalent thereof.

Third. The period of the canal concession held by the Guatemala Company being for ninety-nine years, the present agreement shall be in force for the same period.

Fourth. It is understood that in case of hostilities between the Governments of Honduras and Guatemala contraband of war shall not be permitted to pass through said canal.

Fifth. The engineer, director general of the Guatemala Company, agrees to cause this agreement to be respected by the employees of said company, and in like manner the Government of Honduras agrees to cause the rights and privileges of the company to be duly respected.

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Sixth. This agreement shall be ratified by the Government of Honduras within two months from the date hereof.

Done in duplicate at Graciosa on June 20th, 1864.

Signed: L. Alvarado and J. A. de Brame. Seal. Guatemala's headquarters, Graciosa Bay, Guatemala.

The President, who is vested with the supreme executive power of the Republic, having examined the foregoing agreement and deeming it useful and beneficial and in the interest of the state, it is hereby resolved to approve the same in all its parts, and notice thereof should be given to the proper persons. Done at Comayagua at Government House, August 4th, 1864. Signed: J. Medina, Republic of Honduras, Ministry of Foreign Affairs. Signed: M. Colindres. (Here follows an entry in the record book of the Ministry of Foreign Relations for the year 1864 of the receipt and approval of the above agreement and report.)

NOTE.—This agreement is the one referred to in the same official Guatemalan paper called "La Semana," which number was Exhibit XVII (b) of the amplification of the Honduras duplica.

No. 29.

(Seal reading Metropolitan Government of Santiago, Guatemala.)

PALACE OF THE ARCHBISHOP,
Guatemala, April 6, 1865.

Most Rev. Father JUAN DE JESUS ZEPEDA,
Bishop of Comayagua.

The parish priest of Quesaltepeque of this archdiocese has applied to this ecclesiastical government with the following exposition:

Maria Crisanta Rivera, 18 years of age, widow of Bernardino Licona, who died on Sept. 6th last, and was buried in *Playon Copan, which is a subparish of Sensenti of the State of Honduras*, the said Maria being a resident of this parish for the past two months, intends to contract matrimony with Jose Bonifacio Ybañez, 44 years of age, widower, his first wife being Teresa Urrutia, he being a native and resident of San Jacinto, a subparish of Quesaltepeque. The documents requiring legalization by the ecclesiastical government of Honduras in due form are as follows: (1) Death certificate of the said B. L.; (2) publication of the banns; (3) deposition of two witnesses who are well acquainted with the lady in question.

In consequence, having acceded to this petition, I have decided to address Your Reverence requesting that you be pleased to order the respective parish priest to obtain the above-mentioned documents and have them legalized in due form and then transmit them to this ecclesiastical government with a statement of the expense incurred, which latter will be duly reimbursed.

Yours, etc.,

FRANCISCO,
Archbishop of Guatemala.

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No. 30.

MUNICIPAL COURT OF CAMATON,
March 1, 1866.

To the Municipal Mayor of Cachapa:

Under date of the 27th ultimo, there has been received in this office your communication regarding the misconduct of one of my citizens residing in that republic. I have the honor to state in reply that it is true that you did issue the orders mentioned in your said letter, but inasmuch as the residents of this village have recognized and respected as the *dividing line between the two republics the place called Llanetio, where is situate El Morrito*, which is located in front of *Jute*, this respect and the recitals in title deeds prevent the residents from making any mistake in carrying on their work from said line to the interior of this jurisdiction, as this comes from ancient times; therefore, if the governors of the Departments of Chiquimula and Gracias do not adjust this matter, we will always continue under a deception, so that the owners of *Jute* should of course apply to the proper court to have the boundaries of their property determined in order to avoid disturbances, and that so far as concerns the properties belonging to this village, it will not be long before some one well versed in the matter will demand of Messrs. Guelches that they exhibit their title deeds so as to compare them with ours; with respect to the suspension of the work which had been begun, orders were immediately issued to Ines Sanchez under no circumstances to continue said work in the place mentioned in your letter.

God keep Your Excellency many years.—By order of the Mayor Dolores Erazo.

(Signed) SALVADOR NUFIO, *Clerk.*

OFFICE OF THE ACTING MAYOR OF COPAN,
Cachapa, March 21st, 1866.

The foregoing is a true copy of the original.

(Signed) ANTONIO PINEDA.

No. 31.

National Archives, Unimpeachable Documents—Sec. 4 Gracias—Cachapa. Trespass at Cordoncillo and Guelches matter—No. 3–No. 483—1866.

OFFICE OF THE ACTING MAYOR OF COPAN,
Cachapa, Feb. 27, 1866.

To the Local Commandant of the Post at Jocotan:

I have this day been informed by trustworthy persons that on the 24th inst. Sergeant Inirino Zagastume, of your militia and your sub-

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ordinate, with an escort of five soldiers armed with the national arms of your Republic, entered and trespassed upon the territory of this Republic of Honduras as far as the village of Cordoncillo, which is within my jurisdiction, the object of their visit being unknown, and that on their return they stopped at Jute.

In view of the friendly relations and political understanding which exists between the high officials and governments of the two republics, I have been surprised at the step thus taken by said Sergeant Zagastume, and more so when I have just noted the very circumspect action of Capt. Jose Maria Espinosa, of the army of this Republic, in the execution of a commission for the inspection of the tobacco crop in this my jurisdiction, because having occasion to proceed with his detail of armed troops to the jurisdiction of San Jorge, of this Republic, he intended, in order to shorten the journey, to pass through the place called Monteron, in the jurisdiction of Esquipulas; but when he learned that he would have to trespass on Guatemalan territory, he changed his course and elected to send his detail through the mountainous forests of this Republic, all in obedience to definite orders from his superiors, and also in keeping with the friendly policy of his Government and the respect due its ally, the Republic of Guatemala.

Wherefore, and in the belief that Sergeant Inirino Zagastume and escort are under your orders, I wish to lay these facts before you in order that you may approve or disapprove the former's action and at the same time I request a reply.

Respectfully yours,

(Signed) ANTONIO PINEDA,
Mayor of Copan.

Cachapa, March 21, 1866. The foregoing is a true copy of the original. (Signed) Antonio Pineda.

OFFICE OF THE LOCAL COMMANDANT OF JOCOTAN,
Jocotan, March 3, 1866.

To the Mayor of Cachapa: Under date of the 27th ultimo I received your communication in which you complain that on the 24th ultimo Sergeant Inirino Zagastume, commanding a boarder patrol, trespassed on territory of the Republic of Honduras with an armed squad, his object in doing this being unknown, which action compelled you to address this authority. There can be no doubt that you are entitled to an explanation of the causes which obliged Sergeant Zagastume to commit so grave an offence as that of trespassing with arms a neighboring republic, with which our is on the most friendly terms, and I therefore assure you that this will not be a ground for setting our high governments at odds, and the reason is that this commandant will be prompt in preventing any abuses that might be

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committed by the Commander of the border patrol. Accordingly I am having an investigation made in order to inflict upon said Sergeant such punishment as his offense may warrant. I trust that the above will answer your communication.

God keep Your Excellency many years.

(Signed) SIMEON ROSALES.

OFFICE OF THE ACTING MAYOR OF COPAN,
Cachapa, March 21, 1866.

The foregoing is a true copy of the original.

(Signed) ANTONIO PINEDA.

OFFICE OF THE LOCAL COMMANDANT OF JOCOTAN,
Jocotan, March 3, 1866.

To the Mayor of Cachapa:

Under date of the 27th I received your two communications of which I have taken due note, and in reply I wish to state that immediately upon receipt of your request I communicated with the Mayor of Camotan in compliance with our friendly relations, and the latter replies as follows: I have your communication dated this day, in which you request me to order Ines Sanchez to suspend the work of clearing the woods near the house of Messrs. Guelches, and in reply I wish to state that yesterday the order for the suspension of said work was given to said Sanchez at the request of the Mayor of Cachapa, and you may be assured that I will always be glad to comply with your orders in view of the harmonious relations which exist between this authority and yours, of all of which you may rest assured. The above, I believe, will answer your letter.

God keep your Excellency many years.

(Signed) SIMEON ROSALEZ.

OFFICE OF THE MAYOR OF COPAN,
Cachapa, March 21, 1866.

The foregoing is a true copy of the original.

(Signed) ANTONIO PINEDA.

OFFICE OF THE ACTING MAYOR OF COPAN,
Cachapa, Feb. 27, 1866.

To the Captain and Local Commandant of the Post at Jocotan:

I have this day also received a further complaint that the Indian Ines Sanchez, of the jurisdiction of Camotan, is clearing some woods in this republic on lands of *Jute* belonging to Messrs. Guelches, of this jurisdiction—the more so since said woods are contiguous to the irrigation works of Cecilio Guelches, and as you know by explicit orders of the office of the Commandant General and the Department of Chiquimula, dated 1863, said authorities have been ordered to

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respect every section of the place called *Jute*. I therefore address you with these presents, requesting that you be pleased to inform the authorities of the Indian village of Camotan to put a prompt stop and employ means to have their charges stop such action because should they persist therein it will result in creating a difficulty between the two friendly governments, and all because of their failure to obey the superior orders of the Department of Chiquimula.

I believe that with a friendly admonition to the authorities of Camotan from you the inhabitants will modify their actions and respect such orders.

Yours, etc.,

(Signed) ANTONIO PINEDA.

OFFICE OF THE MAYOR OF COPAN,
Cachapa, March 21, 1866.

The foregoing is a true copy of the original.

(Signed) ANTONIO PINEDA.

OFFICE OF THE MAYOR OF COPAN,
Cachapa, February 27, 1866.

To the Mayor of Camotan:

On this day I have been informed that Ines Sanchez, a resident of your town, dwelling at a place called Anicillo in your jurisdiction, has trespassed upon this Republic on lands of Messrs. Guelches, near the irrigation plant of Cecilio Guelches, and is clearing some woods in the belief that they belong to your town and are in territory of the Republic of Guatemala. I am very certain that you will find in the archives of San Turgido, superior orders issued by the Commandant-General and Governor of the Department of Chiquimula, that under no circumstance shall the lands of Jute be considered as belonging to your town, and least of all its inhabitants as citizens of the Republic of Guatemala.

Wherefore I address these presents to you so that in compliance with the orders which I have cited above, and the performance of your duties, you order said Sanchez to suspend his unwarranted action because should he persist therein it would create difficulties between the two friendly and allied governments. I therefore hope that you will issue effective orders in order that your citizens shall in the future desist from such arbitrary action, all of which is to the detriment of your authority.

Respectfully,

(Signed) ANTONIO PINEDA.

OFFICE OF THE ACTING MAYOR OF COPAN,
Cachapa, March 21, 1866.

The foregoing is a true copy of the original.

(Signed) ANTONIO PINEDA.

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No. 32.

(Seal of the Metropolitan Government of Santiago, Guatemela.)

PALACE OF THE ARCHBISHOP OF GUATEMALA,
Oct. 5, 1867.

To his Reverence, Father Juan de J. Zepeda, Bishop of Comayagua:

From the enclosed copy of the record of proceedings you will please note that in the month of December, 1864, this Metropolitan Ecclesiastical Government granted dispensation for two impediments against marriage which affected Ramon Cueva and Juana de Dios Arellano, who alleged that they were members of the Parish of Esquipulas; but very recently, almost three years after the celebration of the marriage, the parish priest of Esquipulas reports that according to information recently obtained, the said lady at the time the said marriage was effected, resided and was domiciled at a place called *Estanzuela, belonging to Cucuyagua in your Bishopric*, and that the groom, although he visited frequently the town of Esquipulas, had his residence in another place in the said jurisdiction of Cucuyagua, known as *Boca del Monte.*

As your Reverence may well presume, if the investigation of these facts was made with the legal formalities the nullity of the marriage aforesaid would become public and thereby result in serious difficulties which your Reverence can well grasp, and for this reason, as well as because it is to be presumed that the parties acted in good faith in their statements, the failure to clearly establish their real domicile being due perhaps to the method of examination on the part of the parish priest, it has seemed to me the best thing to do to lay the facts before your Reverence, in order that, as the lawful prelate of these parties, and with the prudence which distinguishes your acts, you may be pleased to take such action as you may deem advisable.

God keep Your Excellency many years, etc.

(Signed) MANUEL F.,
Bishop of Christ.

No. 33.

(Seal of the Metropolitan Government of Santiago, Guatemela.)

PALACE OF THE ARCHBISHOP OF GUATEMALA,
July 15, 1869.

To the Provisor and Vicar-General of the Bishopric of Honduras:

In the parish of Esquipulas of this Archbishop there is an application for permission to marry by Modesto Antonio Leiva, a native of said town, legitimate son of Eusebio Leiva and Roberta Mejia, and Maria Secunda Posados, native of Ocotepeque, of your diocese, and resident for the last four years at *Playon* in the jurisdiction of

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Sensenti, 20 years of age, legitimate daughter of Dario Posados and Petrona Pineda, and it being necessary for that purpose to have an authentic record of the baptism and singleness of the lady in question, I request your Reverence to please order the parish priest of Ocotepeque to issue in due form the certificate of baptism of said Maria Secunda Posados, and that the banns be published in the parish of Sensenti, all of which shall be certified and both documents authenticated and sent to this Metropolitan Government in due course, with a statement of the expenses incurred, with the understanding that we will reciprocate in similar cases. God keep your Excellency many years.

(Signed) BERNARDO,
Archbishop of Guatemala.

Marginal notes:

Aug. 12th. On this day a communication was addressed to the parish priest of Cucuyagua requesting the certificate above referred to.

Aug. 14th. On this day a request has been made to the parish priest of Ocotepeque to obtain the certificate referred to.

Oct. 20th. A second order was issued to C. Legdo for the certificate previously requested.

Nov. 9th. On this day there were sent by mail the documents requested.

No. 34.

Republic of Honduras—Seal—Office of the Collector of Revenues for the Department of Copan.

To the Collector of Revenues:

Marcos Pinto, Mayor of the Village of Concepcion, acting for himself and in behalf of said municipalities and their inhabitants, respectfully states that as the Commons belonging to this village are no longer sufficient for the purpose, and as we are convinced that a tract of mountain land called Yzotes in this jurisdiction belongs to the nation because it is not included within the boundary of any of the lands for which title has been issued, and accordingly, that it may be denounced and titled in favor of private individuals, we respectfully petition the collector to be pleased to order said mountain to be surveyed for our account, with the assurance that we will pay the nation the value of the amount of land that may result from said survey. The foregoing is just, and we affirm that we are acting in good faith.

Dated, Concepcion, June 12, 1880.

(Signed) MARCOS PINTO.

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Office of the Collector of Revenues of the Department of Copan. Santa Rosa, June 14, 1880.

The foregoing denouncement is hereby admitted according to law and in order to ascertain if the land denounced belongs to the Republic and not to the town or private individuals, let a communication be addressed to the civil Justice of the Peace at Ocotepeque in order that he may take the deposition of three persons of full age and competent, and to report thereon to this office.

(Signed) J. AGUSTIN MADRID.
ROBERTO COLLART.
ALFREDO MEPA.

On the same date the foregoing order was communicated.

(Signed) MADRID.

This petition is hereby forwarded.

Court of the Justice of the Peace of the City of Ocotepeque—June 23, 1880. Received. Let the above order be complied with.

(Signed) ESTEVAN DE J. ARDON.
TIBURCIO CALDERON.
CELESTIN CARRANZA.

Forthwith, Yoidno Hernandes having appeared as a witness in these proceedings in the presence of the witnesses hereto, I administered the oath to him, and he stated that said land is unappropriated; that it is in the jurisdiction of Concepcion and on the border with the Republic of Guatemala; that the said town has possessed the same for nine or ten years; that some persons, although few in number, have paid rent to the person who claims to be the owner of said land. * * * (Here follows signature.)

Forthwith appeared the witness Eustagesio Pacheco, who being duly sworn in the presence of the other witnesses, deposed as follows: That the land in question is in the jurisdiction of the Village of Concepcion; that it is unappropriated; that for the past ten years the inhabitants of said town have been working therein, and that by reason of the fact that these lands border on others belonging to Esquipulas, Republic of Guatemala, some laborers have paid sums to some individual, but the majority have not as they recognize that the mountain called Ysote belong to this Republic. * * * (Here follow signatures.)

On the 25th of the same month appeared witness Palenciano Espana, who in the presence of the witnesses was duly sworn by me, and he deposed as follows: That the land which the municipality of Concepcion has denounced is unappropriated. * * * (Here follows a certificate of the Justice of the Peace of Ocotepeque certifying the record dated June 25, 1880.)

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No. 35.

J. Rufino Barrios, General and President of the Republic of Guatemala, Central America. Esquipulas, Nov. 1, 1880.

To Surveyor Juan B. Collart, Ocotepeque: From the note, which under date of October 30th last you addressed to the Mayor of this town where I am on a visit, I learn that you have come to make surveys along the frontier between this and that Republic, and I have already issued my orders that you be not permitted to make such operations so long as the interested governments have not arrived at an agreement as to the boundary points. (Signed) J. Rufino Barrios.

No. 36.

(Republic of Honduras.—Office of the Collector of Revenues, Department of Copan.)

Office of the Collector of Revenues of the Department of Copan, Santa Rosa, February 2, 1889. It having been fully established that the land called El Yzote is national land, and having been denounced by the municipality of Concepcion, District of Ocotepeque, Surveyor Carlos Madrid is hereby appointed and directed to make such survey. (Signed) Franco Pineda. Jose C. Fimientes. Vicente Garcia L.

To the Collector of Revenue: The undersigned surveyor deems it his duty to inform you, for such purposes as you may ultimately deem advisable, of the occurrences in the execution of the commission issued to him in these proceedings. They are as follows: In accordance with the recitals contained in the authenticated documents which were submitted to me, the same being title deeds to Montana del Mico, commons of Concepcion; Pozas del Remudadero, and Miramundo, property of Messrs. Ramos y Recinos; residents of Chaumagua and Jagua, villages in the Republic of Guatemala; and accompanied by the municipal authorities of Concepcion and its inhabitants, and of the aforesaid gentlemen, residents of Guatemala, I proceed to make a field investigation and study on the ground in order to verify the state of things; as a matter of fact the title deeds of the town of Concepcion recognize as boundaries of its commons Cerro Oscuro, Pena Blanca, and Cuchilla del . . . . and Sope, and its line B–C is traced in the title deeds to Las Pozas and Miramundo, which are more ancient than those of Concepcion and which were not cited when the surveyor of Honduras came to make the survey; another line, D–A, continues through Cerro Oscuro to a landmark called Ojo de Agua del Nacimiento. Accordingly from the above recital it can be seen from the plan there is a strip of land between the parallels D–A and B–C which is national, and common between the two Republics of Guatemala and Honduras,

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through which runs the *River called Piedras Coloradas, which is indicated by nature as a dividing line between both countries.* However, as such boundary has not been fixed by the governments, I have not found a certain point from which to make the survey requested by the municipality of Concepcion because as the land titles of Pozas del Remudadero, Miramundo, and commons of Concepcion do not border on each other along the lines indicated, there is a strip of national land between the two countries through which the boundary line should pass, and no operation can at present be undertaken therein without risk of infringing upon the sovereignty of the two nations.

Accordingly I have deemed it my duty to stop all further proceedings, limiting myself to the rendering of this report in order that, if you deem it advisable, you inform the Supreme Government, which will no doubt resolve what may be most advisable.

Ocotepeque, February 20, 1889.

(Signed.) CARLOS MADRID.

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MEDIATION

OF THE

HONDURAN-GUATEMALAN BOUNDARY QUESTION

HELD UNDER THE GOOD OFFICES OF THE DEPARTMENT OF STATE

1918-1919

(IN TWO VOLUMES)

VOL. II

WASHINGTON
GOVERNMENT PRINTING OFFICE
1920

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INTRODUCTORY NOTE TO VOLUME II.

The number of documents presented in the Honduran-Guatemalan Boundary Mediation necessitated the preparation of two volumes instead of one, as had been originally intended. The present volume contains a cartographical and geographical report submitted by the Honduran Special Mission, as well as the final briefs laid before the Honorable Mediator by the Honduran and Guatemalan Special Missions.

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BOUNDARY QUESTION BETWEEN THE REPUBLIC OF GUATEMALA AND THE REPUBLIC OF HONDURAS.

[Under mediation of the Honorable Secretary of State of the United States of America.]

BRIEF ON BEHALF OF HONDURAS.

ROOT, CLARK, BUCKNER and HOWLAND,
Attorneys for the Republic of Honduras.

EMORY R. BUCKNER,
EDWARD SCHUSTER,
AUGUSTINE P. BARRANCO,
Counsel.

New York, November, 1918.

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Statement of the Case.

Guatemala and Honduras are bordering Republics of Central America. Guatemala, lying west and north of Honduras, contains about 49,000 square miles and has a population of about 1,500,000; Honduras is smaller, containing about 46,400 square miles, and with a population of about 750,000.

Columbus touched on the north coast of Honduras on his fourth voyage in 1502 and took possession of the region in the name of the Spanish Sovereigns, Ferdinand and Isabella. The early *conquistadores* followed soon after and on behalf of the Spanish Kings took possession of the region of Central America which remained a part of the Crown domain until independence was declared in 1821.

For administrative purposes Spanish America was divided into viceroyalties and captaincies general. Both were kingdoms; the captaincies general being merely smaller than the viceroyalties. A collegiate authority, known as the *Audiencia*, functioned as the council of the viceroy or captain general. The district of the *Audiencia* was coterminous with the viceroyalty or captaincy general. Mexico was constituted as a viceroyalty, and the entire region south thereof, which now comprises the States of Guatemala, Honduras, Salvador, Nicaragua, and Costa Rica, was embraced within the captaincy general known as Guatemala.

The *Audiencia* of Guatemala was in turn divided into districts, the larger districts being known as provinces or *governancies* (gobernaciones), and the smaller as *alcaldías mayores* and *corregimientos*. The system is described in the General Code of Laws issued in 1680

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for all the Indies, known as *Recopilación de Leyes de los Reinos de las Indias* (Book V, title 1, law 1). It was provided in Book II, title 15, law 6, that the *Audiencia of Guatemala* should embrace the provinces of Guatemala, Nicaragua, Chiapas, *Higueras* (as the Province of *Honduras* was known at the time), Cabo de Honduras, Vera Paz, and Soconusco, with the islands on the coast. Thus, the kingdom or *audiencia*, and one of the districts thereof, were *both* called *Guatemala*.

The *intendencia* system in Mexico under the Royal Ordinance of December 4, 1786, was by subsequent royal *cédulas* or rescripts extended to the Kingdom of Guatemala. The Ordinance in Mexico, and these *cédulas* in the Kingdom of Guatemala, preserved the territorial limits of each district. Thus the *Provincias* of Honduras and Guatemala became the *Intendencias* of these names.

The ecclesiastical jurisdiction followed that of the political; the archbishopric corresponded to the *audiencia;* the bishopric to the *provincia* or *intendencia*. (*Recop.*, B. II, t. 2, law 7.)

On September 15, 1821, the peoples composing the districts of Guatemala and Honduras declared themselves independent states. Those living within the administrative limits of the *Intendencia* of Honduras became not only independent of Spain but independent of Guatemala. The present State of Guatemala is thus the descendant not of the *Audiencia* of Guatemala or the *Captaincy General* of Guatemala, but only of the *Province* of Guatemala.

Since 1821 no treaty has been signed, no constitution has been adopted, and no law has been passed, which substantially altered the boundaries then existing; except that by the treaty of 1859 between Great Britain and Guatemala the British occupation of Belize ripened into sovereignty, to the detriment of Honduras, with respect to that portion of the coast region which lies west of the Sarstoon River and extends to Yucatan. The treaties into which Guatemala and Honduras have entered since the year of independence have served to define the limits of the *uti possidetis* of that year enjoyed by the two colonies of the same names; and the constitution not only of the Central American Federation during its existence from 1824 to 1839, but also the constitutions of Guatemala and Honduras during this period and after, as well as the organic laws putting them into effect, have served the same purpose of defining the line of possession between the two republics.

EVENTS LEADING TO THE PRESENT MEDIATION.

During the colonial régime the territory of the *Audiencia* of Guatemala was the private domain of the King of Spain, except during

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the brief constitutional interim (in 1812 and 1820–1821) when it was a portion of the public domain. He could partition the districts as he wished. If he had described in detail the limits of the Province or *Intendencia* of Honduras as distinguished from the Province or *Intendencia* of Guatemala this dispute would not have arisen; but he did not. The matter was agitated soon after independence, in order that precise delimitation be made; and as there was no legislative action by the Federal Congress during the life of the Central American Union, after its dissolution a treaty was signed by the two States of Guatemala and Honduras, on July 19, 1845, which provided in Article 13 that "The States of Honduras and Guatemala recognize as their common boundary that laid down for the diocese of each in the Royal Ordinance of *Intendentes* in 1786."

The negotiations under this treaty for the demarcation of the common boundary were abortive. A further boundary convention was signed on March 1, 1895, providing for a mixed technical commission to study the antecedents, documents, and data (Article 1), to make record of its studies (Article 3), and to report to the contracting governments, which should consider (Article 6)—

(1) "The lines marked in public documents;"

(2) "The extent of the territory which formed the ancient provinces of Honduras and Guatemala at the date of their independence;"

(3) "The provisions of the Royal Ordinance of *Intendentes* which then ruled;"

(4) "In general, all documents, maps, plans, etc."

It was further provided that possession should only be considered valid in so far as it was just, legal and well founded in conformity with general principles of equity and with the general principles of law sanctioned by the law of nations. (Article 6.) The convention was to continue for ten years. (Article 16.) Under it commissioners from the two States met in 1908, 1909, and 1910, and recorded the results of their work in a series of minutes. These minutes are available to the Honorable Mediator in a volume published in 1913 by the Honduran Department of Foreign Relations, entitled *Tratados Vigentes de la Republica de Honduras.—Primera Parte: Centro-America.* In addition to settling Cerro Brujo and Cerro Obscuro as points in the boundary, these minutes determine in detail the modern line of possession from the common boundary of Guatemala and Honduras with El Salvador northward to the point known as Portillo de Caulotes or Coyoles.

In 1914 a further treaty was signed, which is in the same terms as that of 1895, with the exception that provision is made for arbi-

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tration by the President of the United States (Article 10); and that a new Article 16 was inserted, as follows:

> The high contracting parties declare that they recognize as valid the work carried out up to this date by the mixed boundary commission in virtue of and in accordance with the convention signed in this city, on the first of March, 1895, by the plenipotentiaries of both nations.

This treaty is accepted by the parties as the law governing the present proceeding.

THE PAPERS FILED WITH THE HONORABLE MEDIATOR.

The papers filed with the Secretary of State of the United States as Friendly Mediator in these Proceedings are as follows:

(A) The *Minutes* of the meetings with the Representatives of the two Governments, including the controlling treaty of 1914.

(B) The *Memoranda* filed from time to time on behalf of the two Governments.

(C) *Working Maps:* (1) The map (scale 1:400,000) filed in May, 1918, accepted as geographically accurate by both Governments; (2) two sectional maps (scale 1:50,000) filed on behalf of Honduras in which the line is treated in detail; (3) a map (scale 1:100,000) which combines the features of all the other maps, filed on behalf of Honduras.

(D) *Evidence:*

Guatemala's evidence consists of (1) a *Real Cédula* of September 8, 1563, and (2) eleven documents, summarized in an "Index" which is appended to the last memorandum filed on her behalf.

The evidence produced to support the position taken by Honduras consists of nearly two hundred documents which have either been filed with the Honorable Mediator or are included by reference to copies from printed sources; and also of seventy-four maps covering the entire colonial period and the early years of independence in Central America, reproductions of which have been filed with the Honorable Mediator. The documentary evidence, besides legislation of the Spanish Kings, treaties to which Guatemala and Honduras are parties, the actual and proposed constitutions of the Central American Union and the several constitutions adopted by the two Republics, consists of every variety of documents which in connection with the adjustment of the boundaries between States, especially those in Latin America, have customarily been introduced in evidence—reports of administrative officials; grants of lands from the Crown domain; records in judicial proceedings; evidence of the territorial extent of ecclesiastical jurisdiction, which in the Spanish Colonies have equal importance with evidence of temporal jurisdiction; and testimony of contemporary geographers and historians.

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In addition, counsel to Honduras submit with the present Brief, as an exhibit thereto, a careful Report upon the cartographical and geographical data available, which has been prepared by Dr. Mary W. Williams, Professor of History at Goucher College, Baltimore. Dr. Williams was requested to conduct her research and report her conclusions, with the nonpartisan attitude of an historical investigator, in order that her report might inspire the greatest possible confidence.

In referring to pages of the Notes or Memoranda filed on behalf of the two Governments, "G" will herein be used for Guatemala and "H" for Honduras; "App." for Appendix; "Exh." for Exhibit. Unless otherwise indicated page references will be to the English translations of the Memoranda or Notes filed with the Honorable Mediator.

DESCRIPTION OF OUTSTANDING GEOGRAPHICAL LOCALITIES BEARING UPON THE TERRITORY IN DISPUTE.

In order that the Honorable Mediator may more easily follow the discussion, a few of the principal points in the territory in dispute will now be mentioned. Referring to the small-scale map filed with the Mediator in May, 1918, and beginning in the southwest, we note:

Cerro Brujo.—This is a mountain peak, which is admitted by the Parties to constitute the common point of boundary of Honduras, Salvador, and Guatemala.

Cerro Obscuro.—Another mountain peak, about 25 kilometers northeast of Cerro Brujo, which was agreed upon as a point in the line by the boundary commissioners acting in 1908.

The Copan Region.—This comprises the valley of this name, wherein are located the famous Copan ruins, situated on the outskirts of the town of Copan.

Portillo de Caulotes or Coyoles.—This is a point on the boundary line in 1821 and on the modern line of possession, near the Copan River and approximately on the parallel of the ruins of Copan, which, for convenience of treatment in the present Brief, serves to divide the southern sector from the middle sector of the line. We have already noted that it was recognized as a point on the modern line of possession by the mixed boundary commission which functioned under the treaty of 1895.

Managuá River rises some 15 kilometers north of Copan, flows north until it meets the *River Motagua*, which flows thence east and north to the sea.

Lake Izabal, commonly known as *Golfo Dulce*, is west and north of the Motagua River.

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Cape Three Points, also known as *Amatique* or *Manabique Point*, is a peninsula lying between Golfo Dulce and the mouth of the Motagua River, on the inner side of which was situated San Gil de Buena Vista, founded in 1524 by Gil Gonzales Dávila, the earliest settlement in Honduras.

Amatique Bay, also known as *Manabique Bay*, is the arm of the Gulf of Honduras lying behind Cape Three Points and the peninsula of Amatique. On its shore was located Sto. Tomás de Castilla, founded in 1605 and abandoned in 1646 in favor of Castillo de San Felipe (also known as Puerto de Golfo Dulce), situated on this last-named body of water.

Comayagua, *Higueras*, and *Hibueras* are various names of Honduras. Comayagua was also the name of the capital city.

Guatemala.—(1) the *Audiencia*, captaincy general; (2) the Province and later *Intendencia*, in which the capital city was; (3) the capital city, often called Santiago de Guatemala.

CLAIMS OF THE TWO GOVERNMENTS.

Guatemala.—Referring to the map filed May, 1918, on which the respective claims of the two Republics are indicated, it is seen that the claim of Guatemala goes to the River Ulua on the north coast of Honduras, along the river to its source, and then in a straight line to the eastern shore of the Gulf of Fonseca on the Pacific side. The claim of Guatemala thus embraces about 15,000 square miles of the territory now in the possession of Honduras, that is to say, about one-third of the total extent of the territory of Honduras, within which about one-half of the present Honduran population resides.

The contentions of the two Governments with reference to the Guatemalan claim meet sharply and are simply stated. Laying aside for the moment the eleven exhibits alleged to be corroborative, which refer to points much to the west of the Fonseca-Ulua line, the sole basis of the Guatemalan claim is a *Real Cédula* of King Felipe II of September 8, 1563 (inserted in the initial Guatemalan Memorandum of May 24, 1918). The answer submitted on behalf of Honduras is that this *cédula* was repealed eight months later by another, of May 17, 1564; and that this repeal is corroborated by every subsequent royal decree and historical fact.

No alternative line is suggested by Guatemala as legally possible.

Honduras.—In general, the line claimed by Honduras follows the present line of possession, except that, since about 1892, when construction on the Guatemalan Railroad out of Puerto Barrios began, the Motagua River has formed the western limit of actual Honduran possession.

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Beginning at the southwest, it is submitted that the boundary starts from Cerro Brujo, the point at which Guatemala, Salvador, and Honduras meet, and thence goes northeast through to the Portillo de Caulotes or Coyoles. This may be called the first section.

From Coyoles the line runs north to the Managua River and thence along this river to its confluence with the River Motagua. This may be called the second section.

From the confluence of the Managua and Motagua Rivers it is claimed by Honduras that the boundary in the year of independence struck northeast for the southernmost point of Golfo Dulce, and skirting the western shore thereof to a point a little above 15° 30′ north latitude, ran in a straight line up to British Honduras. This may be called the third section.

To sustain its claim in the first section, Honduras, in addition to the *uti possidetis* of 1821, relies upon Article 16 of the Treaty of 1914, which it is alleged ratified and incorporated by reference the minutes of agreement whereby the boundary commissioners acting under the treaty of 1895 fixed upon the two points in this line of Cerro Brujo and Cerro Obscuro. In answer Guatemala contends that the work of the preceding commissioners was (*a*) *ultra vires* their powers and (*b*) not complete.

As to the second section, Honduras presents every class of probative evidence permitted to sustain the *uti possidetis* of 1821, relying particularly upon ancient title deeds. The answer by the representatives of Guatemala is a recurrence to the *cédula* of 1563, and as to the town of Copan, upon two isolated documents evidencing jurisdiction by the ecclesiastical authorities of Guatemala.

For the claim up to British Honduras in the third section, Honduras relies upon various royal decrees, acts of political and ecclesiastical jurisdiction, and the testimony of cartographers and geographers to establish the *uti possidetis* of 1821. Reference is also made to evidence of occupation of the coast region east of Belize to a date as recent as 1865. As regards the territory of Belize westward to Yucatan, any question of title has been foreclosed by British occupation thereof since 1763.

Again, in answer, Guatemala relies upon the *cédula* of 1563.

The parties agree that the treaty of 1914 constitutes the law controlling the present controversy; and that the treaty fixes the *uti possidetis* of 1821 as the governing principle, which the Representative of Guatemala in the present Mediation has insisted, and the Representative of Honduras has in general assented, be formulated as the *uti possidetis juris* of this year. It follows that a condition precedent to the suggestion by the Mediator of a compromise, as indicated in his address of May 20, 1918, whereby he opened this pro-

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ceeding, is an ascertainment by the Mediator of the true legal line as of 1821. The present Brief is limited to a discussion of this question; and the contentions therein made should not be considered as in any manner to embarrass the Honorable Mediator's freedom of action.

THE DIFFERENCES DEFINED.

The controversy as to the true legal boundary on the principle of the *uti possidetis juris* of 1821 may be definitely settled by consideration of the Notes and Memoranda filed with the Honorable Mediator by the Representatives of Guatemala and Honduras and of the evidence now before him. There are only a few prime issues upon which all other disputable points depend. These may be stated as follows:

1. Was the *Real Cédula* of September 8, 1563, in force in 1821? If it was not, what decrees of the Spanish Kings were then operative?

2. Is Cerro Brujo the common point of boundary of Salvador, Guatemala, and Honduras, and is it the southern terminal of the last two republics?

3. Is Cerro Obscuro a point on the boundary between Guatemala and Honduras binding upon them at the present day?

4. Was the Valley of the Copan within Honduras in 1821?

5. Did the *Intendente* of Honduras have jurisdiction westward in 1821, at least, to the Motagua River?

6. Did the *Intendente* of Honduras also have jurisdiction in the year of independence over the coast region, at least as far west as the frontier with British Honduras?

If these controlling questions are answered, the Honorable Mediator may easily define the line of the *uti possidetis juris* of 1821; and with this line as his point of departure, he will be in a position to suggest a compromise line which will take into consideration the changes in the occupation *de facto* since independence and the just aspirations of the two Republics.

THE SPANISH COLONIAL SYSTEM.

The Mediator should be provided with some account of the governmental machinery which functioned in the Captaincy General of Guatemala during the colonial epoch. Such account will lighten his labors in considering the issues which have arisen between Honduras and Guatemala, in weighing the evidence submitted by them and in reaching his conclusion.

At the top of the system stood the King, whose word was law, except for the brief time that the Constitution of 1812 was in force. In practice, the King relied for the administration of the Colonies

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upon the Board of Trade (*Case de la Contración*) and the Council of the Indies (*Consejo de Indias*). Rigid detailed supervision was practiced over colonial affairs, as to commercial restrictions principally by the Board of Trade, and as to all legislative and judicial matters by the Council of the Indies. The royal ordinances, *cédulas*, instructions, orders, etc., from time to time issued for the Indies, were codified in 1680 in the *Recopilación de Indias* and in the main continued in force until the emancipation of Central Ameria. It was provided in Book II, title 2, law 2, that the Council should have supreme legislative jurisdiction.

In America the King's representative was during the period of discovery and conquest the *adelantado*. Subsequently he became the Viceroy and possessed the entire royal authority in the kingdom. He was military governor and the royal treasurer. All other officers and subjects, both ecclesiastical and secular, had to yield to his superior authority. See *Recop. de Indias*, Book III, t. 3, l. 1. Law 5 constitutes the viceroys as governors of their respective provinces.

In the smaller kingdoms, such as Guatemala, the supreme governor was not a viceroy but a captain general,—"king of a smaller kingdom." The captain general or the viceroy was the president of the *audiencia*, which was at once a privy council, and a supreme judicial court and legislative body. The Code of the Indies divided Spanish America into twelve *audiencias*, of which the captaincy general of Guatemala was one. (Book II, t. 15, l. 1.) In Guatemala the *audiencia* sat at the capital city of Santiago, and was constituted with a president, five judges (*oidores*), one solicitor (*fiscal*), one high sheriff and other officers. (B. II, t. 15, l. 6.) It embraced various subordinate districts which varied at different times, but always two of these districts were that of the capital city or province known as Guatemala and that of Honduras or Comayagua.

Within the provinces or *governancies* as they were called, subdivisions were made up of *alcaldias mayores* and *corregimientos* (Recop., B. II, t. 15, l. 1.), which were in effect enlarged counties. Towns and villages were known as *ciudades* and *villas*, governed by *alcaldes mayores*, *alcaldes ordinarios* and *regidores*, the *alcaldes* and *regidores* together comprising the *cabildos* or municipal councils.

The relations between the supreme officials of the Captaincy General or *Audiencia* seem complicated in comparison with the well-defined separation of legislative, judicial, and executive powers in modern governments. But the complexity to an extent disappears if it is borne in mind that the relations between the central and provincial authorities have an analogy to the relations between the federal and state governments of the later Central American Federation.

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The Captain General was President of the *Audiencia* and, if he was a lawyer, could take part in its judicial labors. (Recop. de Indias, B. II, t. 2, l. 44.) He was also the political and military head of the Kingdom and the hierarchical superior of the governors and *alcaldes*, including those of the province of Honduras. (B. II, t. 15, l. 43.) He had certain supervisory powers over all the officials of the kingdom, both central and local. He could make *ad interim* appointments in the local governments. (B. V, t. 2, l. 4.) As vice patron, in the king's stead, he was civil head of the church and could interfere in local appointments, exemptions from jurisdiction of the ordinary courts, and in educational and charitable matters. In arduous and weighty matters of government he was enjoined to act by accord with the other members of the *audiencia*. (B. III, t. 3, l. 45.) In addition he was governor of the province of the same name in which lay the capital city, Santiago de Guatemala. (B. II, t. 15, l. 45.)

The territory of the archbishopric corresponded to that of vice royalty or captaincy general, and the dioceses of the bishops to the provinces. Thus, the archbishopric of Guatemala coincided with the *audiencia* of Guatemala; and the bishopric of Honduras with the province (and later the *intendencia*) of Honduras. (B. II, t. 2, l. 7.) The archbishop, in addition to his hierarchical authority over the bishops, exercised direct jurisdiction over the diocese of Guatemala proper.

The officials of Honduras, on the other hand, could only function within Honduras (B. II, t. 1, l. 1.); hence their acts could not have the equivocal character of those of Guatemala.

The two-fold authority, central and local, of the Captain General and of the Archbishop of Guatemala is emphasized, because all their acts of general jurisdiction, although having a local effect within one of the provinces, for example Honduras, do not cease to reflect general jurisdiction, and therefore they do not furnish evidence in the present Mediation in diminution of the territorial authority of the provincial Governor of Honduras.

Such was the system in the Captaincy General of Guatemala until the new system of *intendencias*, originally implanted in Mexico under the Ordinance of 1786, was extended to Guatemala by a series of royal *cédulas* and orders in 1787, whose effect will be discussed hereinafter.

For general authorities on the political, ecclesiastical and administrative system in the Spanish Colonies see the following: Altamira, *Historia de España*, vol. IV, sec. 811; Juan Diez de la Calle, *Memorial y Noticias Sacras y Reales* (1646), ch. 4; Bancroft, *History of Central America; History of Mexico*, vol. III, ch. 24, 27; Bourne,

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Spain in America, pp. 206–234; Moses, *Establishment of Spanish Rule in America*, ch. 4; *Spanish Dependencies in South America*, vol. I, ch. 14–15; Roscher, *Spanish Colonial System* (ed. Bourne); Keller, *Colonization*, ch. 8; Vélez Sarsfield, *Relaciones del Estado con la Iglesia en la Antigua América Española;* Smith, *Viceroy of New Spain;* Hill, "Office of Adelantado," *Political Science Quarterly*, vol. XXVIII, pp. 646–668; Jones, "Local Government in Spanish Colonies," *S. W. Historical Quarterly*, vol. XIX, pp. 65–90.

ARGUMENTS.

I.

THE GUATEMALAN CLAIM TO THE ULUA-FONSECA LINE IS UNTENABLE.

(1) The claim is based exclusively upon the real cédula of September 8, 1563.

In the first memorandum filed May 24, 1918, on behalf of Guatemala the royal decree or *cédula* issued by the King of Spain on September 8, 1563, is set forth (p. 45) as "demarkating in a clear and precise manner the territorial jurisdiction of Guatemala." In each subsequent memorandum the Guatemalan representative has relied upon the validity of the line thus marked out. In the final summary filed on behalf of Guatemala it, together with the *cédula* of May 17, 1564, to which the representative of Honduras called the attention of the Guatemalan representative, are stated to be "the *only documents* that must be taken into consideration for the solution of the controversy." (G. Note, Sept. 21, 1918, p. 274.)

In the first memorandum filed by Guatemala the *cédula* of 1564 was not mentioned. After it had been brought forward on behalf of Honduras as repealing the *cédula* of 1563, the *cédula* of 1564 was construed by the representative of Guatemala as confirming that of the year previous.

It is not alleged that at any time subsequent to 1563 has Guatemala had possession or exercised political or ecclesiastical jurisdiction up to the Ulua-Fonseca line. On the contrary it is admitted that this vast extent of territory, especially the southern portion from Cerro Brujo to Fonseca Bay, has been in the possession of Honduras both before and after 1821; that the territory now claimed constitutes about one-third of the region always considered as belonging to Honduras; and that the people within that district have lived up to this time acknowledging allegiance to the Republic of Honduras. Nevertheless, the representative of Guatemala in his several notes has reiterated that all these considerations must be disregarded and the boundary line established in accordance with the 1563 *cédula*,

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applying strictly the principle of the *uti possidetis juris* of 1821 (further discussion and references in point II). If this 1563 *cédula* is shown to have been repealed or never to have taken effect, the Guatemalan claim to the Ulua-Fonseca line falls to the ground; leaving the Honorable Mediator to determine the legal boundary substantially on the evidence offered by Honduras.

(*a*) The seven exhibits offered by the representatives of Guatemala as corroborative refer to places distant from the Ulua-Fonseca line.

It is true that on behalf of Guatemala are cited seven documents alleged to be confirmatory. The documents are summarized in the "Index of the probatory documents and reasons therefor," filed with the final Guatemalan Note of September 20, 1918.

Of these, two are said to be useful as antecedents of the rescript of 1563:

(i) The first is a royal decree of December 18, 1527, appointing Pedro de Alvarado Governor of Guatemala. By this document Guatemala alleges that "It is shown that since the time of its origin the Province of Guatemala extended to Yucatan." Yucatan is hundreds of miles from the Ulua-Fonseca line.

(ii) The second antecedent document is a letter from Francisco de Montejo dated July 28, 1533, which is alleged to show that a boundary question existed and was settled in 1563 and 1564. So far as the early dispute may be relevant, we are of opinion that it was a dispute within the Province of Honduras between the two *adelantados* as to who was entitled to govern it.

Five documents are then cited in the summary as confirming the rescripts of 1563 and 1564. Those lettered (*a*) and (*b*), dated May 23, 1675, and August 27, 1676, refer to the Golfo Dulce territory, far distant from the Ulua-Fonseca line; document (*c*) is a letter from the Archbishop of Guatemala dated about 1678, which may show something of the activities of the Archbishop, and consequently the extent of the *Archbishopric*, which was coextensive with the *Audiencia* of Guatemala, but hardly can be said to indicate anything concerning the lesser political district of the *Province* of Guatemala; (*d*) and (*e*) are documents with reference to ecclesiastical jurisdiction in the Copan Valley in 1778 (properly 1768–1769) and 1784, again far distant from the Ulua-Fonseca line.

These constitute all the documents referred to on behalf of Guatemala in support of the extreme claim.

Reference is then made to five further documents which are said to destroy the territorial claims of Honduras. These will therefore be subsequently considered in due course.

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It may also be noted that the first two exhibits filed on behalf of Guatemala with the Guatemalan memorandum of June 25, 1918, which related to matters in the turbulent period subsequent to independence and prior to the establishment of the Central American Federation in 1824, are abandoned in the final "Index" here under review.

(2) The *cédula* of September 8, 1563, was expressly repealed by that of May 17, 1564.

Guatemala's claim to the line of Fonseca Bay–Ulua River is based upon one of the two *cédulas* of September 8, 1563, namely, that which her representative produced with his Note of May 24, 1918 (p. 45). Honduras countered this claim by producing the second *cédula* of September 8, 1563, and that of May 17, 1564 (H. Note, June 22, pp. 68–70), and contends that a natural construction of the three rescripts shows that that of 1564, insofar as the delimitation of the province of Guatemala was involved, expressly set aside the boundaries of the province as defined in the 1563 *cédula* and restored those previously observed. There would seem to be little doubt of such repeal.

These three *cédulas* deal with two subjects, one the transfer of the *audiencia* from Guatemala to Panama and the other the boundaries of the provinces of Guatemala and Honduras. In the present Mediation we are not concerned with the *audiencias*, our problem being the delimitation of the two *provinces*, as contained in the second *cédula* of 1563 and the repealing *cédula* of 1564. Accordingly we may dismiss from further consideration the transfer of the *audiencia*, merely noting that the *audiencia* of Guatemala was restored by the *cédula* of June 28, 1568. (Text in Peralta, *Costa Rica, Nicaragua y Panama*, p. 416.)

The second *cédula* of 1563 and that of 1564 treat of the provinces as such. The mere comparison of the enacting portions of each shows that the later *cédula* expressly repealed the earlier:

Real Cédula Çaragoça, September 8, 1563.	*Real Cédula Escorial, May 17, 1564.*
"* * * That Luis de Guzman, our Governor of the said Province of Tierra Firme * * * shall pass to said province of Guatemala, there to have the government of said province; and because it is well and advisable that it be known what are the district and limits which said governancy of Guatimala shall have, by these presents * * * we do declare and com-	"* * * That Juan Busto de Villega, who is our Governor of the said Province of Tierra Firme * * * shall pass to said province of Guatimala, there to have the government of said province. Because it is well and advisable that the district and the limits which the said government of Guatimala is to have shall be known, by these presents * * * we do de-

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mand that the said governancy of Guatimala shall have as limits and district from the bay of Fonseca inclusive and the Ulua River inclusive with the villages of Sant Gil de Buenavista and the town of Gracias a Dios."

clare and command that the said governancy (*governación*) of Guatimala shall have for limits and district from the Bay of Fonseca inclusive to the province of Honduras exclusive by straight line (*línea rata*), and that for that part which borders with the province of Honduras it shall remain according to the boundaries (*términos*) which until now it has had * * * WHICH WE DO COMMAND SHALL BE KEPT AND CARRIED OUT NOTWITHSTANDING ANOTHER PROVISION OF OURS WHICH WE COMMANDED TO BE GIVEN RESPECTING (CERCA) THE SAID LIMITS [.] IN THE CITY OF ÇARAGOÇA ON THE EIGHTH DAY OF THE MONTH OF SEPTEMBER OF THE PAST YEAR OF ONE THOUSAND FIVE HUNDRED AND SIXTY THREE. BECAUSE IT IS OUR WILL THAT THERE SHALL NOT BE KEPT AND CARRIED OUT BUT THIS WHICH WE NOW GIVE."

The conclusions are obvious, first, that the Honduran territory which was annexed to Guatemala under the 1563 *cédula* was restored to Honduras by the 1564 *cédula;* second, that this restoration was made not only by that portion of the 1564 *cédula* which restated the old boundaries but also by the express repeal of the 1563 rescript "respecting the said limits [given] in the city of Çaragoça on the 8th day of the month of September of the past year of 1563, because it is our will that there shall not be kept and carried out but this that we now give." The repeal of the 1563 rescript could not be stated in simpler language or clearer form.

The representative of Guatemala has attempted to reconcile the two *cédulas.* He lays stress on the language of the later *cédula*, that the boundaries of Honduras shall be those "which *until now* it has had." Such language was purposely and properly used, because the *cédula* of 1564 was issued before that of 1563 had been put into effect. In those days there were but two fleets a year which sailed for America from Spain, the fleet for Mexico (which included Honduras) leaving in April, and that for Panama in August. (Haring, *Trade and Navigation between Spain and the Indies*, pp. 90, 207.) When the *cédula* of September 8, 1563, was issued, both fleets for that year had sailed. Accordingly, the *cédula* could not have left for America except by the fleets of the next year. Hence the *cédula* of May 17, 1564, either went out in the same mails as the *cédula* of 1563, which it repealed, with the Mexican fleet, or overtook the *cédula* by the Panama fleet due to sail in September.

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Thus it cannot be doubted that the King in Council in the 1564 *cédula* intentionally and necessarily repealed the 1563 *cédula* in the language actually employed.

There can also be no doubt that the 1563 *cédula* was overtaken by the later *cédula* and never went into effect. In those days many months were required for royal decrees to be put into operation. For instance, the transfer of the *Audiencia* from Guatemala to Panama, decreed by the other *cédula* of 1563, was not actually effected until 1565; and the restoration of the *Audiencia* of Guatemala, ordered by the *cédula* of 1568, was not realized until 1570. (Juarros, *op. cit.*, vol. II, pp. 49–50.)

Yet another attempt is made on behalf of Guatemala to reconcile the two *cédulas*. The explanation is offered that the line fixed by the *cédula* of 1563 was uncertain and that the 1564 *cédula* merely made it definite: To this two answers may be made:

(i) The line was not uncertain, as has been demonstrated by the Guatemalan engineers in the present proceedings. They drew without difficulty the Fonseca-Ulua line of the 1563 *cédula* on the map which was filed with the Honorable Mediator in May, 1918. Evidently the Guatemalan delegation then found no need for clarification and definition, for the 1564 *cédula* had not yet been produced by the representative of Honduras.

(ii) If the explanation offered by the representative of Guatemala were sound, the *cédula* of 1564 would complicate the matter instead of simplifying it. The limits prescribed in the two *cédulas* are quite different. In the 1564 *cédula* it was provided:

> * * * the said governancy of Guatemala shall have for limits and district from the Bay of Fonseca, inclusive, to the province of Honduras, exclusive, by straight line * * *.

Reference to the maps of the time (for example, that filed as Exh. XVIII, with H. Note of August 27, 1918) shows that Honduras was conceived as stretching along the entire North coast from Nicaragua to Golfo Dulce and Yucatan. If Honduras was to retain such territory then a straight line connecting the Bay of Fonseca with the province would be understandable. Such a line would be perpendicular to the southern boundary of Honduras along the Sierra Madre. If, on the other hand, as is suggested on behalf of Guatemala, a line was to be drawn due north from the Bay of Fonseca it would nowhere strike the Ulua River, which is much to the west, and there would be a decided break in the periphery of Honduras.

(a) The contemporary evidence confirms this construction.

(i) *Testimony of official Spanish geographers and historians.*

In 1574 Juan López de Velasco completed his *Geografía y Descripción Universal de las Indias*, which was the fruit of his appointment

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by Felipe II in 1571 to the post of Cosmographer-Chronicler. In this remarkable work, which was based on the official archives and published after examination and license of the *Consejo de Indias*, Velasco assigned Guatemala and Honduras clearly defined frontiers. (Ed. Zaragoza, pp. 301–306.)

Substantially the same boundaries for the two Provinces are given by King Felipe's Chief Chronicler, Antonio de Herrera, in his *Descripción de las Indias*, published in Madrid, 1601 (pp. 32–36). In fact Herrera copied almost verbatim that anonymous manuscript *Summary* of Velasco's *Descripción*, which was reprinted in 1871 by order of the Spanish Government in the *Colección de Documentos Inéditos de Indias* (vol. XV, p. 409 *et seq.*) and with whose maps Herrera illustrated his own work. (Lopez de Velasco, ed. Zaragoza, p. x.) An extract from this *Summary* is reproduced as Honduran Exhibit IV. (See H. Note of Aug. 27, 1918, p. 220.)

If these descriptions of the provinces of Guatemala and Honduras are read, having in hand Herrera's maps of the *Audiencia* of Guatemala (produced in evidence by Honduras), it will be perceived that Guatemala Province lay along the South Sea entirely south of the Sierra Madre, a strip with an average width of 25 to 30 leagues; and that its common boundary with Honduras ran from the sources of the River Chuluteca to the *alcaldía mayor* of Verapaz; that Verapaz lay to the west of Golfo Dulce and inland; and that Honduras extended, north to south, from the North Sea to the Sierra Madre, and from east to west, ran from the Chuluteca River to Golfo Dulce and then, skirting Golfo Dulce and bounding with Verapaz, continued up to its frontier with Yucatan, in 16½° latitude. Neither the Bay of Fonseca nor the Ulua River were boundaries between Guatemala and Honduras in the period of these descriptions (1571–1601). Had the *cédula* of 1563 been in force, these descriptions of the royal cosmographer, Velasco, and the chronicler, Herrera, based as they were on official sources of information and licensed by the highest colonial authority, could not have failed to reflect them.

(ii) *Administrative Construction.*

1576.—Under date of March 8, 1576, Licentiate Diego Garcia de Palacio, one of the *oidores* (judges) of the *Audiencia* of Guatemala, reestablished by *cédula* of June 28, 1568, made a report to King Felipe II of a tour of Honduras and Chiquimula. We quote the following extract (Fernandez, *Colección de Documentos para la Historia de Costa Rica*, vol. I, pp. 1, 2, 44–45, 47–48, 50; H. Exh. No. 13, item 21):

"Catholic Royal Majesty—By your *cédulas* and provisions Viceroys, Presidents, and Governors of these parts are ordered and enjoined to make detailed

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and true relation of the position of lands, Indians, languages, customs, rivers, mountains and rarities and things of their districts, account whereof should be given to your Majesty and thus recorded * * *. By other *cédulas* and provisions your Majesty likewise orders that an *Oidor* in his turn shall visit the provinces of his district for the good, conservation, and policing of these natives, and to relieve them of the injustices and vexations from which they suffer, and to compose and do justice in such other things as among them may offer. In performance whereof this Your Royal *Audiencia* of Guatemala nominated me for said visit and designated certain provinces in its district, where I saw and learned things which being rare and noteworthy have impelled me to report to Your Majesty * * *.

From this place [Mitla] commences the province and *corregimiento* of the town of Chiquimula de la Sierra * * *. Towards the part that leads from this place to Gracias a Dios in Honduras, the Indians are Chontales * * *.

Near said place [Mitla], *as one goes to the city of San Pedro, in the first place of the province of Honduras, which is called Copan, there are some ruins and vestiges of a large population and of superb buildings* [Palacio then describes the ruins of Copan] * * *."

If the line of the Ulua River-Fonseca Bay of the 1563 *cédula* had been in force, when Palacio reported in 1576, he would not have mentioned Gracias a Dios, San Pedro Sula, and Copan as situated in the Province of Honduras.

1582.—Alonso de Contreras Guevara, Governor of the Province of Honduras, in compliance with a *cédula* of the King and his Royal Council of the Indies, compiled a list and description of the cities and towns within the province, under date of April 20, 1582. In referring to Gracias a Dios, the Governor enumerated, among other towns, the following which are of special interest in the present Mediation: Tencoa (now Santa Barbara), Ocotepeque, Camasca, Chapulco (on the Motagua River), Quesalica and Copan. He includes San Pedro Sula; and in connection with San Juan de Puerto Cavallos, he mentions Masca, Amatique and Gama. (H. Note of June 22, 1918, p. 63; H. Misc. Exhs.)

All of these settlements are west of the Ulua River. Governor Contreras Guevara would not have included them in his report had the *cédula* of 1563 been in force.

1603.—In a report to the King, the *Audiencia* of Guatemala stated that in view of His Majesty's order of February 7, 1602, that no expenditures be made from the Royal Exchequer except in cases provided by the *Ordenanza* and therefore that "such aid as may be given to Amatique shall be with the people of that land, whom the Governor shall have under discipline and training," it (the *Audiencia*) "has already ordered the Governor of Honduras to proceed accordingly." (H. Misc. Exhs.)

This report shows that the highest authority in the Captaincy General (namely the President and *oidores* composing the *Audiencia*)

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regarded Amatique as within Honduras. This port was, of course, far to the west of the Ulua-Fonseca line.[1]

1646.—In this year Juan Diez de la Calle, second official of the Secretariat of the Council of Indies published his *Memorial y Noticias Sacras, y Reales del Imperio de Indias Occidentales.* He had the necessary license to print of the Council of Indies and was rewarded by the King with a special compensation of 600 ducats. In this work, which was a summary of the administrative organization of the colonies, historically and currently considered, Calle makes no mention of the *cédula* of September 8, 1563, or of the Ulua-Fonseca line. On the contrary he recites as lying within the Province of Honduras the city of Gracias a Dios, the *villa* of San Pedro, Tencoa, and the Port of Santo Tómas de Castilla. In his account of the Province of Guatemala he mentions no city or town lying between the Ulua and Motagua Rivers.

Thus for a period of eighty years following upon the signature of the *cédula* of September 8, 1563, all the contemporary evidence confirms our construction that it was repealed by the *cédula* of May 17, 1564; and also sustains our contention that the Ulua-Fonseca line was never put into effect.

(iii) *Maps.*

It is significant that Guatemala has not produced a single map contemporaneous with the *cédula* of 1563 (or for that matter of any other date during the entire colonial period), of either an official or private character, which gives the Ulua-Fonseca line as the boundary between the provinces of Guatemala and Honduras. On the other hand Honduras has submitted numerous maps of both classes, all of which indicate a frontier far to the west of the Ulua River—either the Motagua River or Golfo Dulce or Yucatan.

(*b*) The subsequent history of Honduras and Guatemala confirms this construction.

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[1] In this connection we note that a controversy arose between the President of the *Audiencia* and the Governor and local authorities of the Province of Honduras over the proposed closing of Cavallos as a port of entry for commerce from Spain and the establishment of such port at Amatique or Sto. Tómas de Castilla. (See documents of years 1583, 1606, and 1608; H. Note, June 22, 1918, pp. 63–64.) This proposal had its origin in the desire of the authorities at Santiago de Guatemala to have a port more convenient for Guatemala than Cavallos; and in the supposition that Amatique would be less exposed to piratical assaults. In March, 1604 the President, Alonso Criado de Castilla, caused Amatique Bay to be surveyed; and by the beginning of 1605 had effected the transfer of the inhabitants of Cavallos to the new port of Sto. Tómas de Castilla, which was located near the sites of the early settlements of San Gil de Buena Vista and Amatique since fallen into decay. However, Sto. Tómas did not prosper and was abandoned in favor of Puerto Dulce, called Castillo de San Felipe de Lara, after its fortification was finished by the *oidor* Lara y Mogrobejo while acting as president of the *audiencia* (1648–1654). Juarros, *op. cit.*, vol. II, p. 166, vol. I, pp. 263–264; Milla, *Historia de la America Central*, vol. II, pp. 224–226; Bancroft, *History of Central America*, vol. II, pp. 649–651.) In this controversy as to changing the port of entry, no question was raised as to the territorial extent of Honduras, but only as to the authority of the President of the *Audiencia* to close one port of entry and open and fortify another, both admittedly lying in the Province of Honduras. (H. Exh. XXV, no. 2.)

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It would be strange indeed, in view of the history of the western part of Honduras since 1563, if the *cédula* of September 8, 1563, had not been repealed. Honduras has been in exclusive and uninterrupted possession of the territory now claimed since that year, and up to the present day—a period of three and a half centuries. During the entire colonial epoch the affairs of the district now claimed by Guatemala were administered by Honduran officials.

Since the year of independence Guatemala has not only never exercised jurisdiction over the territory now claimed under the *cédula* of 1563, but never until during the course of the present proceeding has the existence of the claim even been intimated by diplomatic note or otherwise. Guatemala did not mention the *cédula* of 1563 during the negotiations following the treaties of either 1845 or 1895 with Honduras. Nor did Guatemala bring forward the *cédula* in the course of its dispute with Mexico over Chiapas, notwithstanding the fact that the *cédula* expressly granted to Guatemala jurisdiction of that entire province. (G. Note, May 24, 1918, p. 45.) See Larrainzar, *Chiapas y Soconusco*, *passim*.

The historical facts are so conclusive that our American common law judges in a litigation would apply the fiction of the lost grant, which they frequently used to support the doctrine of prescription. If a person had been in uninterrupted possession of land for twenty years, it was held that he was presumed to have had a paper title thereto and that it had been lost. There is no doubt that if the Honduran case depended on it, the present Mediation would be a proper instance for application of the doctrine of prescription, which has often governed territorial disputes between our own colonies. (*Rhode Island* v. *Massachusetts*, 4 How., 591, 639; *Virginia* v. *Tennessee*, 148 U. S., 503, 522; *Maryland* v. *West Virginia*, 217 U. S., 1, 41–43.)

(3) The cédula of September 8, 1563, even assuming it were not repealed by that of May 8, 1564, is inconsistent with the cédulas which extended to the Captaincy General of Guatemala the system of intendencias implanted in New Spain by the ordinance of intendentes of December 4, 1786.

In demonstrating that under the principle of the *uti possidetis* of 1821 Honduras had possession at least up to the line of Cerro Brujo-Caulotes-Motagua River we shall have occasion to indicate (*infra*, p. 442) how upon the extension to Central America of the system of *intendencias* from Mexico, there implanted by the *Ordenanza de Intendentes* of December 4, 1786, the territorial organization of the *Intendencia* of Honduras was definitively fixed by the *cédula* of July 24, 1791, which declared it to include the *alcaldía mayor* of Tegucigalpa, "with all the territory of its Bishopric except the port and military post of Omoa"; and how Omoa was restored to the direct

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control of the Governor-*Intendente* of Honduras by the *cédula* of October 16, 1818.

These *cédulas* of July 24, 1791, and October 16, 1818, are inconsistent with the continued existence of the 1563 *cédula* even if we admitted that the Ulua-Fonseca line named therein had hitherto constituted the boundary between Honduras and Guatemala. The 1791 *cédula* in providing that the *intendencia* of Honduras should include "all the territory of its Bishopric *except the port and post of Omoa*" indicates that the *intendencia* must have extended west of the Ulua River and beyond Omoa; otherwise the exception of Omoa made in the *cédula* would have been meaningless surplusage. Similarly the *cédula* of 1818, in placing Omoa within the jurisdiction of the *intendencia* of Honduras, would not have added the phrase "in the manner in which it had been prior to its aggregation to Guatemala."

The *cédula* of July 24, 1791, provided that the *intendencia* of Honduras should include all the territory of the Bishopric of Honduras (except the port and post of Omoa). Honduras has offered abundant evidence, which will be analyzed hereinafter, that the territory of the Bishopric extended at least as far west as the Motagua River and the Copan Valley and that within such territory the bishops of Honduras and their subordinates exercised spiritual jurisdiction. To the extent that ecclesiastical territory and jurisdiction are thus shown, we have additional proof of the abrogation of the *cédula* of 1563.

Guatemala was not erected into an *intendencia* until 1805, by a Royal Order of June 25th of that year, being formed out of the province of that name, without any change in its territorial extent (references *infra*, p. 423). In this order there is not the slightest suggestion that the jurisdiction of the *intendencia* of Guatemala extended to the line of the Ulua River-Fonseca Bay. If there had been, Guatemala would have mentioned the fact in the *Instructions* to her boundary commissioner prepared in 1844 in anticipation of the treaty with Honduras of the following year. Quite to the contrary, in these *Instructions* the Guatemalan government was content to indicate as the boundary line with Honduras the Copan Valley and the Motagua River (H. Exh. XVII A, supra p. 250); and to direct her boundary commissioner to ascertain the extent of Guatemalan territory by the negative process of inquiring as to the limit of Honduran jurisdiction.

(4) The Constitutions of Guatemala of 1825 and 1845 are inconsistent with the present Guatemalan claim to the line of Fonseca Bay and the Ulua River.

The Constitution of the Central American Federation promulgated November 22, 1824, after stating (Tit. I, sec. 2, art. 5): "The territory of the republic is the same which the ancient kingdom of Guate-

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mala previously comprehended * * *;" and (art. 6): "that the Federation is composed of five states, Guatemala, Honduras, Costa Rica, San Salvador, and Nicaragua," provided: "Art. 7.—The boundaries of the States shall be demarcated by a constitutional law after the necessary data are obtained."

No constitutional law having been enacted by the Federation, Honduras and Guatemala were free to fix their respective boundaries. The former expressly declared that its territory was all that had always corresponded to the ancient bishopric and colonial province. Constitutions of Honduras of December 11, 1825, and of January 11, 1839 (ch. 1, art. 4); and of February 4, 1848, and September 28, 1865 (ch. 2, art. 4).

Under these circumstances the Constitutions of Guatemala of 1825 and 1845 are significant. Section 3 of Article 35 of the Guatemalan Constitution of October 11, 1825, in describing the national territory, included to the north "all the towns of the *partido* of Chiquimula with Izabal * * *."

All mention of the vast stretch now claimed was omitted. It was then in possession of and claimed by Honduras. The same comment may be made of the Guatemala Constitution of September 16, 1845, which states in Title 1, as follows:

"ART. 5. The State comprehends the ancient departments of Verapaz, Chiquimula, Sacatepequez and Guatemala, and also the departments of Los Altos, reincorporated by the decree of the Constituent Assembly of August 13, 1840.

ART. 6. In the present Constitution, the provision contained in that of 1825 concerning Sonsonate and extending to Soconusco shall be deemed reproduced, in order that prescription can at no time be alleged."

If at the time there had been any pretension to the western part of Honduras, an allegation to bar the running of prescription would have been inserted similar to that with reference to Sonsonate and Soconusco whose territory was in dispute, respectively, with Salvador and Mexico.

As a matter of international law, one state can not acquire territorial jurisdiction as against another by declaration in the organic law, except, indeed, as a phase of prescription. The Constitution of Guatemala of 1845 furnishes an example, for subsequently Sonsonate adhered to San Salvador and Soconusco to Mexico. A constitution can not have the effect internationally of creating rights and obligations as between sovereign states; but it establishes the corporate limits of a state and by defining them declares to the world that beyond them the national jurisdiction does not extend. (Award of King Alfonso, Honduras-Nicaragua Arbitration, in Ramirez F. Fontecha, *Arbitraje entre Honduras y Nicaragua*, p. 117.) If the district of Gracias and the rest of Honduras west of the Ulua-

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Fonseca line ever did belong to Guatemala, claim thereto was abandoned by Guatemala in 1825 and 1845.

(5) The *cedula* of 1563 is of no effect, because inconsistent with the treaties between Honduras and Guatemala of May 12, 1839, August 14, 1839, March 1, 1895, and August 1, 1914.

It is hardly necessary to quote authorities for the proposition that a treaty supersedes all previous inconsistent stipulations between the same parties. (Crandall, *Treaties, their Making and Enforcement* (2nd ed.), p. 402.)

Article 5 of the treaty of May 12, 1839, acknowledges that Salvador and Honduras are neighboring Republics. But if the territory of Guatemala extended to the line of Fonseca Bay and the Ulua River, Honduras could not touch Salvador at any point.

The treaty of August 14, 1839, provides in article 1 for a conference of the Central American Republics at some point in Honduras, stating that "it is advisable that said meeting be held in Los Llanos de Santa Rosa de Gracias." Los Llanos was the name in colonial times for a district near Copan in the Copan valley, which in turn lay in the subdelegation of Gracias a Dios of the colonial Province of Honduras. The modern town of Santa Rosa to which the treaty refers is in the present Honduran department of Copan. Thus we have recognition by Guatemala in this second treaty of 1839 that the Copan region was in Honduras. Such recognition is wholly inconsistent with the claim to that territory now put forward by Guatemala.

The treaty of March 1, 1895, had provided for a Mixed Boundary Commission to meet at Ocotepeque, because it lay upon the frontier (art. 2). The Mixed Boundary Commission, appointed pursuant to this treaty by the two Republics, agreed upon Cerro Brujo and Cerro Obscuro as two points in the boundary line; and their agreement was confirmed by article 16 of the treaty of 1914. Ocotepeque, Cerro Brujo, and Cerro Obscuro are many miles west of the line of Fonseca Bay and Ulua River.

The claim to the Fonseca-Ulua line based on the *cédula* of September 8, 1563, which has been put forward on behalf of Guatemala, has been treated respectfully, as befits any utterances of her distinguished representative. It is because of his high character and that of the State which he represents that we have been at pains to present a detailed answer. We submit that the *cédula* of 1563, upon which Guatemala relies, never took effect; that if it did, it was abrogated by the *cédula* of 1564; that it is inconsistent with numerous later *cédulas* of the Kings of Spain and with constitutional provisions and treaty stipulations of the Republics of Honduras and Guatemala; and that all of the historical evidence, both contemporary with the *cédula* of 1563 and subsequent thereto, confirms these conclusions.

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II.

THE UTI POSSIDETIS OF 1821 IS THE CONTROLING PRINCIPLE.

A detailed geographical delimitation of the Provinces of Honduras and Guatemala is not to be found in any single royal *cédula*. On the contrary, such delimitation can only be attained through an examination of a series of royal decrees which stretch over the entire colonial period and require interpretation in the light of the acts of jurisdiction of the officials of those entities and of the general history of the Captaincy General. In this direction much progress has been made in this Mediation by the adoption on behalf of both High Parties of a single governing principle—the *uti possidetis* of 1821.

(1) The principle is well settled in American international law and is founded on sound political and social reasons.

The principle is that the boundary line of two contiguous states should be the limit of the colonial administration in the corresponding provinces at the time of independence. In South America independence was generally attained in 1810, and the principle as there applied, is referred to as the *uti possidetis* of 1810. Since independence was not achieved in Central America until eleven years later, it is there referred to as the *uti possidetis* of 1821.

The principle has been commonly adopted in the many territorial disputes between the South American Republics. (Alvarez, *Droit International Américain*, pp. 65–67; Weiss, *Revue Générale de Droit International Public*, vol. XVII, p. 128.) It was even applied in a boundary dispute between Argentine and the Portuguese Republic of Brazil in 1889. (Moore, *International Arbitrations*, vol. II, pp. 1969, 1983.) It was followed in the celebrated arbitration between Argentine and Chile (Alvarez, *Revue Générale de Droit International Public*, vol. X, p. 651); and in the controversy between Nicaragua and Honduras, decided by King Alfonso on December 23, 1906. (Ramirez F. Fontecha, *op. cit.*, p. 114.)

Two states, lineal descendants of two separate colonial provinces, under the same king, naturally took the limits which they previously had as provinces. The provinces were administrative districts whose limits were based upon geographical, commercial, and ethnological considerations. Within each administrative district peoples developed with common economic and social interests and with common traditions. The principle of the *uti possidetis* thus has a moral as well as a legal basis. It regards the natural feelings of a people who have lived, fought, and died together; and common ties are not broken asunder. (Fiore, *Revue Générale de Droit International Public*, vol. XVII, pp. 251–252.)

In the present case Guatemala and Honduras were separate provinces from the earliest years of the Captaincy General, each

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with a separate personnel of political and ecclesiastical officials. The geographical situation of the two peoples was also such that each had independent and sometimes conflicting interests. The dispute, already discussed (p. 409, n.), over Cavallos and Sto. Tomás de Castilla as ports of entry, was an early instance. Guatemala herself introduced in this Mediation two documents, dating around the close of the colonial epoch, which strikingly expressed the divergent interests between Hondurans and Guatemalans. See the G. Exhs. 2 and 7; and the comments thereon in the H. Note of June 29, 1918, p. 141. It was natural that the two peoples should upon emancipation become separate and sovereign states.

(2) The principle has been expressly adopted in Art. 6 of the 1914 treaty between Guatemala and Honduras.

Article 6 provides:

In order to take the necessary resolutions, the Contracting Governments, after the Mixed Commission has presented the result of its labors, shall take into account: The observations and studies of the said Commission; the lines demarcated in public documents not contradicted by others of like class and of greater force, giving to each the value which corresponds thereto, according to its antiquity and juridic efficacy; *the extent of the territory which constituted the ancient Provinces of Honduras and Guatemala at the date of their independence; the provisions of the Real Ordenanza de Intendentes which then governed,* and, in general, all the documents, maps, plans, etc., which may lead to clearing up the truth; giving preference to those which, by their nature, should have greater force by reason of antiquity, because they are clearer, just and impartial, or for any other sound motive, according to the principles of justice.

To possession only should be given value in so far as it is just, legitimate, and well founded, in accordance with the general principles of law and the rules of justice which the Law of Nations has sanctioned on the subject.

For convenience, the passages in the notes filed before the Honorable Mediator in which assent is given to this general doctrine follow: G. Memo., May 24, 1918, p. 29; of June 25, pp. 95, 101, 113; of July 25, p. 193; the H. Memo., June 22, p. 57.

(3) The principle has been expressly defined in such terms by the representative of Guatemala in the present Mediation as to involve a waiver of any prescriptive rights to territory not covered by the *uti possidetis* of 1821 and occupied by Guatemala since that year.

In Guatemala's memorandum of May 24 is the following (p. 2):

In order to give greater clarity to this expositon I shall first state the bases upon which the investigation and determination of our rights must rest.

Guatemala and Honduras must make the demarcation of their boundaries taking the same limits which they had during the colonial government according to the contractual law in force. The principle followed in the latter has been expressed in America, as is well known, in the improper formula of *uti possidetis* up to the time of the independence. This principle in practice has divided the opinions of publicists, inasmuch as while some maintain that in

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solving the boundary questions by the *uti possidetis* they must consider only the fact of the possession without entering into the questions of the title. * * * These opinions have been expressed in formulæ still more improper, the *uti possidetis juris* and *uti possidetis de facto.*

In the case of Guatemala and Honduras there is happily no room even to discuss which of the two opinions must prevail; the signers of the treaty of 1914 did not take into consideration vague formulæ and confusing expressions, and with all possible clearness agreed that * * * the Government should take into account the "comprehension of the territory which constituted the old provinces of Guatemala and Honduras to the date of their independence," indicating that possession shall have value only in so far as it is just, legitimate, and well founded according to the general principles of law and the rules of justice which have been sanctioned by the law of nations upon the subject. Articles 5 and 6.

Again, in the Guatemalan answer presented July 25, 1918, reference is made (p. 193) to "article 6 of the treaty which establishes the *uti possidetis juris* of 1821." See also the Guatemalan Note of June 25, *supra*, pp. 105, 107. In the final note filed on September 20 the representative of Guatemala reiterated the strict principle of the *uti possidetis juris* of 1821 (*supra*, pp. 272, 273, 276). We draw attention especially to the following paragraph (p. 10):

I find it strange, very strange, that señor Bonilla should cite in support of his contention treaties * * * subsequent to 1821, inasmuch as the boundary treaty of 1914 which he respects and accepts, stipulates that there shall be taken into consideration for demarcating the boundary line, documents previous to that year only, which is designed and marked out as a fundamental historical epoch to establish the territorial rights of each state *and thus leaves without value everything done subsequent to the aforementioned date.*

Thus Guatemala insists that the principle is *uti possidetis juris* rather than *uti possidetis de facto;* that the question is not merely of the territory possessed in 1821 by the Province of Guatemala and Honduras, respectively, but that which they had a right to possess (all possession subsequent to 1821 being laid aside as immaterial); and that actual possession not in accord with the legal title as of 1821 must be disregarded. The representative of Honduras has been content, in general, to accept the principle as thus defined by the other side (H. Note, June 22, 1918, p. 57) for the evidence which Honduras presents shows that actual possession in 1821 was in accord with the true legal title.

The matter is not without importance since the extent of present possession in the coast region west of the Motagua River and along a portion of the river, does not accord with the *uti possidetis juris* of 1821. If the rule is strictly applied, as insisted by Guatemala, and as assented by Honduras, Guatemala might fairly be called upon to surrender possession of the peninsula of Cape Three Points and the whole littoral west of the Motagua River as far as British Honduras. As to whether Honduras has title to the coast region west of the

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river, under the principle as defined by Guatemala, will be discussed hereinafter (point VII).

(4) Such waiver by Guatemala is proper, because there has been no change of legal status between the parties since 1821.

It is proper that so far as possession may have been acquired by Guatemala since 1821, outside of the limits of her territory in that year, it should be renounced as having no prescriptive effect. This conclusion is supported by the rules of international law governing the nonprescription of litigious territory and the preservation therein of the *statu quo* (Alvarez, *Revue Générale de Droit International Public*, vol. X, pp. 654–662); the boundary region between Guatemala and Honduras having clearly been in litigation since boundary troubles led to the signature of the treaties of 1845, 1895, and 1914.

The waiver is also in order because the three boundary treaties mentioned and also the two of 1839 (p. 413, *supra*), have in effect preserved the *status quo ante*. Even the definition of the Cerro Brujo and Cerro Obscuro therein stipulated coincided in point of fact with the *uti possidetis juris* of 1821.

The constitutional history of the parties also confirms this conclusion. The Constitution of Central America of November 22, 1824, provided that the territory of the federation was "the same which the ancient Kingdom of Guatemala comprehended, excepting for the present the province of Chiapas" (Tit. I, sec. 2, art. 5); that the federation was composed of five states, among them Guatemala and Honduras (art. 6); and that the territory of each of the five states would be demarcated by a Federal law after the essential data were obtained (art. 7). But no such law was passed during the life of the Central American Federation.[1]

[1] Although G. A. Thompson states in his *Narrative of an Official Visit to Guatemala* (London, 1829) p. 450, that "a new division of territories of these states has been made so as to give each a due portion of the seacoast," no statute to this effect was actually passed by the Federal Congress. This is shown by the fact that the project of a Federal constitution adopted by the Congress on February 13, 1835, repeats the language of Article 7 of the previous constitution to the effect that a law would be passed. Alejandro Marure, in his *Bosquejo de revoluciones de Centro America*, published 1837, states (pp. 99–100): "With reference to the demarcation of territory, no change whatsoever was made but rather it was provided that which existed in the epoch prior to independence should not be altered" (citing an order of Assembly of March 15, 1824); the *Instructions* of the Guatemalan Government to its commissioners in 1844, declare that the special law fixing the boundaries had not yet been passed (H. Exh. XVII A, sec. 1); and the *Report on the State of Affairs of Nicaragua* by Francisco Castellón, envoy of Honduras and Nicaragua to Great Britain, is to the same effect (U. S. Doc., Ser. 579, doc. 75, p. 291). In this report Castellón referred to a decree passed by the Federal Congress on Dec. 9, 1825, article first of which provided: "For the present and until the limits of each State shall have been defined as ordered by the 7th article of the constitution, the district of Nicoya shall continue separated from the State of Nicaragua, and annexed to that of Costa Rica." Castellón stated that Costa Rica had based her claim to Nicoya partly on this decree; but that the decree was not a valid basis, for the reason, among others, "that the Congress having not fixed the limits by a law, before the dissolution of the Union, the annexation of the said district of Nicaragua was considered in the estimation of all of the States as provisional, and therefore Costa Rica cannot claim any right to the said district."

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The early constitutions of Honduras preserved the territory of the *intendencia*. For that of December 11, 1825, ch. 1, art. 4, provided "that its territory comprehends all that corresponds and has always corresponded to the Bishopric of Honduras," while that of January 11, 1839, ch. 2, art. 4, and that of February 4, 1848, ch. 2, art. 4, proclaimed that "The State of Honduras comprises all the territory which under the Spanish government was known as the province of that name." To the same effect is ch. 2, art. 5, of the constitution of September 28, 1865, and also ch. 2, art. 4, of the constitution of December 23, 1873.

The early constitutions of Guatemala are also corroborative. The constitution of October 11, 1825 (sec. 3, art. 35), and that of September 16, 1845 (tit. 1, art. 5) enumerate the various departments of the State, none of which includes Gracias a Dios, the Copan Valley, Tencoa, or San Pedro Sula. Thus there can be no doubt that present possession differing from the line of 1821 cannot be a valid basis of claim.

(5) The determination of the line of the *uti possidetis juris* of 1821 thus becomes a necessary step precedent to the suggestion by the Honorable Mediator of a compromise boundary which will harmonize with the present day situation of the parties.

The Guatemalan representative has, of course, been moved to insist upon the strict *uti possidetis juris* through his mistaken confidence in the legal existence of the *cédula* of 1563; and through the favorable position in which this premise would place his country in obtaining a compromise line further east even than the present-day line of Guatemalan possession.

The Honduran representative has thus been justified in submitting his country's evidence and arguments to show that under the same criterion of the *uti possidetis juris* of 1821 the legal boundary in the coast region extended to Yucatan. However, in so doing, he has at the same time intimated (H. Note of August 27, 1918, p. 228) that his Government was prepared to accept the Honorable Mediator's suggestions as to a compromise line based on the modern possession of the two countries. The position herein taken by counsel of Honduras as to the *uti possidetis juris* should also be regarded as in harmony with this attitude. Honduras and her counsel are confident that once the Honorable Mediator has determined the legal line, he will be able to suggest a compromise boundary which the two countries can accept.

(6) In its application to the present dispute the principle of the *uti possidetis* of 1821 is an historical reconstruction of the limits of political and ecclesiastical jurisdiction in Honduras and Guatemala at the close of the colonial period; every variety of evidence being admissible under the treaty of 1914 to realize such reconstruction.

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Article 13 of the treaty of July 19, 1845, contains the original stipulation whereby the high parties to this Mediation proposed to settle their boundary. Article 13 provided:

> *That the States of Honduras and Guatemala recognize as their common boundary that laid down for the Diocese of each* in the Royal Ordinance of *Intendentes* of 1786, and in order to fix the dividing line in a manner that can not be doubted the two States will appoint their Commissioners. * * *

The Boundary Commissioners under the treaty of 1845 were unable to proceed with their work of demarcation, because they could not agree as to what was proper evidence admissible to establish the limits of the two dioceses. More particularly, the Guatemalan Commissioner refused to consider land titles as admissible evidence (they, of course, were not ecclesiastical documents), notwithstanding that his own *Instructions* had stated that he should take into consideration *haciendas* (estates) which mark the frontier line. (H. Exh. XVII A, sec. 6, *supra*, p. 252; H. Note, May 24, 1918, *supra*, p. 27.)

In view of their experience under the treaty of 1845, which had demonstrated that the boundary line could not be established on the basis of purely ecclesiastical evidence, Guatemala and Honduras when entering into their next boundary treaty, that of March 1, 1895, broadened the varieties of evidence admissible in order to establish the *uti possidetis* of 1821, so as to include not only "public documents" but "in general all documents, maps, plans, etc., which may lead to clearing up the truth." They made no provisions as to any special order in which these varieties of evidence should be considered, but merely stipulated that preference should be "given to those which by their nature should have greater force owing to their antiquity, or being more clear, just, or impartial, or for any other sound motive according to the principles of justice."

Accordingly the objective of the investigation of the *uti possidetis* of 1821 was made not only the common boundary of the dioceses but "the extent of the territories which constituted the ancient provinces of Guatemala and Honduras at the date of their independence" (art. 6).

It seems to be contended on behalf of Guatemala that article 6 of the treaty of 1914 establishes an arbitrary order of precedence. (G. Notes, July 25, 1918, p. 112; Sept. 20, p. 272.) The answer is that while it is true that the article mentions public documents first something had to be written first, and naturally "public documents," as the most authentic variety of evidence would be entitled to preferential consideration. But it will be noted that the article does not detail any order of preference among the various classes of public documents, the parties being content to stipulate that they, along with other varieties of proof, should be given the weight to which

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their intrinsic merit should entitle them according to the general rules governing the admission of evidence. In view of this governing principle the order of recital of the several classes of evidence, other than public documents, was a matter of indifference. As regards "public documents," in the absence of royal *cédulas* conclusive by reason of their terms, surely a *cédula* issued by the King in 1563, and thereafter repealed by or inconsistent with later *cédulas*, is not to be given more force than uncontradicted land titles, official reports, judicial decisions, evidence of ecclesiastical jurisdiction, and even maps or historical statements of later date. That the Honduran position on this subject is sound is shown by the course which the King of Spain followed in the Honduras-Nicaragua arbitration. The Honorable Mediator is referred to King Alfonso's award therein.

III.

THE EVIDENCE OF A GENERAL CHARACTER SHOWS THAT UNDER THE PRINCIPLE OF THE UTI POSSIDETIS OF 1821 HONDURAS HAD POSSESSION BOTH DE JURE AND DE FACTO AT LEAST UP TO THE LINE OF CERRO BRUJO—CERRO OBSCURO—COYOLES—THE MANAGUA RIVER TO ITS CONFLUENCE WITH THE MOTAGUA RIVER, AND THENCE THE MOTAGUA RIVER TO THE SEA. THIS LINE ALSO SUBSTANTIALLY DEFINES THE MODERN LIMIT OF HONDURAN OCCUPATION.

The boundary claimed by Honduras upon the principle of the *uti possidetis* of 1821, as defined by Guatemala in the present proceedings, is identical with the line just given up to the confluence of the rivers Managua and Motagua. Beyond the confluence the boundary strikes north for Golfo Dulce or Lake Izabal, and skirting the south shore of the Lake runs to the frontier of British Honduras. It is indicated on the map filed with the Honorable Mediator in May, 1918. It is proposed at this point to marshal the evidence which establishes the right of Honduras at least to the line in question in the sector between Cerro Brujo and the confluence of the Managua and Motagua, and thence along the latter river to its mouth as the mouth existed in 1821; and to defer for special consideration the Honduran title to the coast region west of this river. Such separate consideration is in order because since 1821 changes have occurred in the coast region to the detriment of Honduran possession therein—first, the British encroachment in British Honduras and, in very recent years, the occupation by Guatemala of the remainder of the region.

It is not seriously disputed by Guatemala that in the territory east of the Motagua river up to its confluence with the river Managua and thence along the latter stream to Coyoles, Cerro Obscuro and Cerro Brujo, Honduras has continuously since the year of independence maintained the *uti possidetis* of the colonial period. (G.

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Notes of June 25, 1918, pp. 113–114, and September 20, pp. 272–273.) There are only two debatable questions, namely, those raised by the occupation of Honduran territory, beginning in 1892, by the installation of the Guatemala railroad for a few kilometers below the confluence of the Managua and Motagua, and the shifting since 1821 of the course of the latter stream in the last dozen kilometers before it reaches the sea. These questions will be discussed hereinafter (Point VI).

The evidence now to be examined refers in general terms to the territory which, Guatemala may be taken to admit, was administered *de facto* by the temporal and spiritual officials of the *Intendencia* of Honduras and, before 1787, by the authorities of the Province of the same name, and which Honduras claims was also an administration *de jure*. This territory comprises what are now the Honduran subdistricts of Ocotepeque, Gracias and Copán which under the *intendencia* composed the subdelegation of Gracias a Dios, and the modern subdistricts of Santa Barbara and Cortés which composed the subdelegations of Tencoa and San Pedro Sula in the *intendencia*. Stated in terms of the Guatemalan *uti possidetis* of 1821, this evidence shows that the eastern limit of administration by the colonial authorities of Guatemala was confined to what was the *alcaldia mayor* of Chiquimula at the close of the Spanish domination, adjoining the Honduran subdelegation of Gracias and what became the modern Guatemalan department of the same name.

The boundary line, with some disputes as to its detailed meander, ran as hereinabove indicated. It is established by the following varieties of evidence which have been produced by Honduras in the present Mediation or are available in print: (1) Colonial legislation; (2) constitutions and legislation after 1821; (3) exercise of the electoral franchise before and after independence; (4) colonial administration, especially reports of officials in the course of duty; (5) land titles; (6) ecclesiastical evidence; (7) treaties between Guatemala and Honduras and negotiations thereunder; (8) geographical and cartographical data. It is proposed to set forth briefly these varieties of proof, in their general aspects, without prejudice to later references in a detailed discussion of the boundary, section by section.

(1) Spanish colonial legislation.

The *Real Ordenanza de Intendentes* for New Spain, as Mexico was then called, was issued December 4, 1786. It was designed to effect a reorganization of the colonial administrative system, in the direction of greater centralization of judicial, fiscal, police and war powers and of the elimination of abuses in the local governmental units. (See Smith, *Viceroy of New Spain*, ch. VI; Priestley, *José de Galvez*, pp. 289-292.)

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The Ordinance was extended to the Captaincy General of Guatemala in 1787. The text of the initial *cédula* has not come down to us, but we know that the theory of extension was the same as that later applied to Cuba: namely, that the Ordinance was to be adapted to local conditions and put into effect to the degree that those conditions warranted. (Zamora y Coronado, *Legislación Ultramarina*, vol. III, p. 379, n.; Altamira, *Historia de España*, vol. IV, p. 195, sec. 811.) The province of Comayagua (Honduras) was at once erected into an *Intendencia*, Brig. Juan N. de Quesada taking the oath of office as the new Governor-*Intendente* on June 26, 1787. The *Alcalde Mayor* of Tegucigalpa having refused to recognize the authority of Quesada as *Intendente*, the latter consulted the Superior Board of the Royal Treasury at Guatemala City whether the *alcaldia mayor* of Tegucigalpa should be incorporated in his *intendencia*. The Superior Board on January 5, 1788, entered a decision in the affirmative, adding that the *Intendencia* of Comayagua should include all the territory of the Bishopric of the same name; and referred its decision to the King for approval. The King confirmed the decision by *cédula* issued on July 24, 1791, including in the *Intendencia* of Comayagua "all the territory of its Bishopric, except the port and military post (*plaza*) of Omoa." (Vallejo, *Historia documentada de los Limites entre Honduras y Nicaragua, etc., pp. 14, 73; Limites entre Honduras y Nicaragua; Alegato de Honduras* (Honduras-Nicaragua Arbitration), p. 75; Ramirez F. Fontecha, *op. cit.*, p. 115; p. 190, doc. no. 15.) The *cédula* of October 16, 1818, restored Omoa to the jurisdiction of the *Intendencia* of Comayagua (H. Exh. XIII). As thus constituted the *Intendencia* of Comayagua endured without further territorial change until the date of independence. (Honduras-Nicaragua Award; Ramirez F. Fontecha, *op. cit.*, p. 117.)

The *Ordenanza de Intendentes* of September 23, 1803, never came to have the legislative force of that of 1786 because as a result of a certain contradiction with military regulations which was noticed, it was repealed by royal order of January 11, 1804, thus leaving only the earlier Ordinance in force. (Zamora y Coronado, *op. cit.*, vol. III, p. 379, n.) But it is interesting to note that the Ordinance of 1803 made the following declaration as to continuing the organization of the *intendencias* in Central America:

> Art. 6. In the Kingdom of Guatemala, the same as before are to continue the *Intendencias* of San Salvador, Comayagua, Nicaragua and Chiapa, and the *Intendencia* of the district of its Capital shall be united to the Presidency thereof, all enjoying for the present the salaries which they now receive.

Had the 1803 Ordinance been put into force in Central America, the *Intendencia* of Guatemala would have been limited to the district of its capital, as art. 6, just quoted, declares. When the *Intendencia*

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of Guatemala was finally created—by royal order of June 25, 1805—it was, as Father Vallejo says (*op. cit.*, p. 77), formed out of the province of that name without any change in its territorial extent. On this subject we also have the authority of Larreynaga and Marure in their *Instructions* to the Guatemalan boundary commissioner in 1844 (H. Exh. No. XVII A, p. 248, *supra*):

> In Guatemala an *Intendencia* was not created, as it was entitled to in accordance with the *Ordenanza*, because an experiment had been made in Mexico which caused conflict of jurisdiction with the Viceroy. But subsequently there was established in this city an *intendencia* of province and not a military one, in accordance with the Royal Order of June 25, 1805, which was printed and circulated on March first following.

By reason of the fact that the *alcaldias mayores* of Chiquimula and Verapaz—to mention only those which bordered on Honduran territory—were not erected into either provinces or *intendencias*, they continued under the political, fiscal, and military authority of the Governor General. (Juarros, *op. cit.*, vol. I, p. 9; Mendez, *op. cit.* (ed. Peralta), p. 244.)

These *cédulas*, which implanted the *Intendencia* system in Honduras and Guatemala, superseded all previous legislation, with the exception of the much discussed *cédula* of August 23, 1745, whereby the governors of Honduras had been invested with military and contraband jurisdiction over the coast region west of the Motagua River up to Yucatan. We propose to discuss the effect of that *cédula* in dealing with the validity of the Honduran claim to this region (*infra*, p. 470 *et seq.*).

At this point, when the Honduran possession up to the line of Cerro Brujo—Coyoles—Motagua River is under examination, we emphasize the fact that pursuant to the *cédula* of 1791 the territorial extent of the *intendencia* of Honduras was defined as coterminous with the Bishopric of Honduras, and that upon the organization of the state governments of Guatemala and Honduras and their federation in the Central American Union following upon independence each State continued with its respective territorial jurisdiction as a colony.

(2) Constitutional provisions and Guatemalan legislation after 1821.

In answering Guatemala's claim to the line of Fonseca Bay-Ulua River, based upon the *cédula* of 1563, we had occasion to show that the claim was untenable for the reason, among others, that it was inconsistent with the extent of territories assigned to the several States of Central America by the Federal constitution of 1824 and by the State constitutions of Guatemala and Honduras which were in force during the period of their federation and afterwards (*supra*,

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pp. 411–413). These constitutional provisions need not be reexamined at this point. It will suffice to recall that in their total effect they show that in her fundamental charters Guatemala has never claimed sovereignty in the territory east of her departments of Chiquimula and Izabal; that is to say, east of the Motagua river and the line of Coyoles—Cerro Obscuro—Cerro Brujo; and that such an admission against interest is conclusive upon her in the present Mediation. (Award of Alfonso XIII in Honduras-Nicaragua arbitration, Ramirez F. Fontecha, *op. cit.*, p. 117.)

Although the Federal Congress during the life of the Central American Union enacted no statute which defined or affected the boundary between Guatemala and Honduras, the State legislature of Guatemala passed a number of laws which clearly show that Guatemala recognized that the line of her *uti possidetis juris* of 1821 did not extend to the east of the line of possession here under review. The Mediator's attention may be profitably drawn to three of these laws which have been introduced in evidence by Honduras (H. Exh. XXI):

1825. A law passed on November 4 of this year by the constituent Guatemalan Assembly, provided:

> Art. 1. The territory of the State shall be divided into seven departments: * * * 2d. Chiquimula, which comprises all the towns and valleys of the ancient *corregimiento* of Chiquimula and Zacapa.
>
> Art 2. The limits of the departments with respect to those adjoining shall be the limits which the *partido* or *partidos* which enter into their formation have up to now recognized.
>
> Art. 6. The department of Chiquimula shall be divided into seven districts, viz: Zacapa, Ascasaguastlán, Sansarla, Esquipulas, Chiquimula, Jalapa, and Mita; and the following towns shall be the heads of these districts: Zacapa, San Agustín, Guastatoya, Esquipulas, Chiquimula, Jalapa, Asunción Mita.

No district or town is mentioned which lies to the west of the Honduran line of the *uti possidetis* of 1821.

1839. The law of September 12, 1839, divided the Republic of Guatemala into seven departments, of which one was Chiquimula; and provided that the departments should comprise all the towns and places set forth in an annexed table. Among the thirty-eight towns and twelve curacies listed as corresponding to Chiquimula and among the six settlements placed in the *Comandancia* (military district) of Izabal, there is not a one which lies on the Honduran side of the line here under consideration.

1848. A decree of May 24, 1848—passed it will be noted after the boundary dispute with Honduras had arisen—ordered the holding of elections for deputies to a constitutional convention in accordance with the election law of August 5, 1838. The convention was to be composed of sixty deputies distributed in electoral districts accord-

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ing to an annexed table. Among the districts listed were Esquipulas, Chiquimula, Zacapa, and Gualan, which are those bordering on the line of the *uti possidetis* of 1821. No mention is made of Copan or any other town, village, or hamlet on the Honduran side.

It is submitted that these organic laws as effectually foreclose the pretensions of Guatemala to Honduran territory as the constitutional articles to which they gave effect.

(3) Exercise of the electoral franchise before and after 1821.

The holding of elections is an exercise of sovereignty, of a high order; and evidence thereof in a disputed territory has been taken into account in the settling of boundaries. The Supreme Court of the United States has uniformly considered such evidence in determining the frontiers of the several states. (*Maryland* v. *Virginia*, 217 U. S. 1, 41; *Virginia* v. *Tennessee*, 148 U. S. 503, 516.) International arbitrators have proceeded likewise. In the Honduras-Nicaragua arbitration the award of King Alfonso recites the holding of elections by Honduras in the disputed area, as excluding the Nicaraguan claim thereto. (Ramirez F. Fontecha, *op. cit.*, p. 117.)

The Spanish Constitution of 1812 (art. 325) made provision for allowing the colonies a voice in their local affairs and in the Cortes in Spain. It authorized the town councils in each province to elect a *diputación provincial* of seven members; and each provincial deputation was to elect a deputy to the Cortes. The constitution was proclaimed in Guatemala City on September 24, 1812; and on November 12 a preparatory *junta* or board designated twelve deputies to the Cortes from Central America, one from each of the provinces, among them being Guatemala, Chiquimula, Verapaz, and Comayagua. But provincial deputations were actually elected only in Guatemala and Nicaragua. (Bancroft, *History of Central America*, vol. III, pp. 8–10.) Elections speedily lost their practical interest because in May, 1814, King Fernando VII on his return to Spain after his release by Napoleon, set aside the Constitution, which was not restored until March, 1820. In April following it was extended to the colonies, with all the laws issued by the Cortes. (Bancroft, *idem*, pp. 22, 25.) As a result provincial elections were held in Central America in November, 1820. The *partidos* (districts) composing the *intendencia* of Comayagua participated, among them the *partidos* of Gracias a Dios and Tencoa. (Award of King Alfonso, Honduras-Nicaragua Arbitration, ed. Ramirez F. Fontecha, p. 117.) On May 8, 1821, the Spanish Cortes enacted that the *intendencia* of Honduras should have a provincial legislature, with the territory then possessed by the *intendencia*. (Vallejo, *op. cit.*, p. x.)

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We again refer to the Guatemalan law of 1848, which ordered the holding of elections for deputies to a constitutional convention, in the sixty electoral districts wherein there was no mention of a single town east of the line of possession in 1821 (*supra*, p. 424).

(4) Colonial administration; official reports.

In considering section by section the line of Honduran possession in 1821, the documentary evidence which shows political and ecclesiastical administration up to that line by the colonial officials of Honduras will be marshalled. At this point, where the evidence of a general character is under review, are collected reports covering the entire province of Honduras. These reports bear dates from the earliest years of Spanish domination down to the very eve of independence. They uniformly establish the Honduran claim to the disputed area, at least as far westward as the line of Cerro Brujo—Cerro Obscuro—Coyoles, and the Managua and Motagua Rivers.

1544.—In this year the Bishop of Honduras, Cristobal de Pedraza, who, acting under an express royal provision, had settled the dispute between the two *adelantados*, Montejo and Alvarado, made a report to the King on the Province of Honduras. In the report he described how Alvarado established within the Province the villages of San Pedro and Port of Cavallos, and thereafter ordered his lieutenant, Juan de Chaves, to proceed inland and found a town within Honduras near the frontier with Guatemala. We refer the Mediator to the following passage (*Colección de Documentos inéditos de Ultramar*, vol. XI, p. 426):

Said *adelantado* [Alvarado] stated that he accepted the said governancy in the name of his Majesty * * * and commenced to place justices of his own hand and with the people whom he brought with him, of the Christians and of those whom he found there [Naco]; he settled the village of San Pedro and came to discover the town (*pueblo*) of Cavallos, and left there ten or twelve other inhabitants * * * *and with the surplus people from these said two populations he sent a gentleman named Juan de Chaves * * * to seek a good site almost on the boundary between Guatemala and Honduras, within the land of Honduras, in order that the two governancies might communicate with each other; and the said Chaves, proceeding with his people in search of the site, wandered a long time lost in the sierras and mountains until they reached the land which now is Gracias a Dios.* As they found that land level, adjoining a river, they said, "Thanks to God that we have finally found level land," and so the city was named, and they settled there, about 50 inhabitants.

1582.—Report of Alonso de Contreras Guevara, Governor of Honduras, on the state of his province. See p. 408, *supra*, where this report was cited to show, as a matter of contemporary administrative construction, that the *cédula* of September 8, 1563, had been repealed by that of May 17, 1564.

1646.—*Memorial* of Juan Diez de la Calle, second official of the Secretariat of the *Consejo de Indias*. This treatise on colonial legis-

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tion was cited at p. 409, *supra*, for the same purpose as was the report of Governor Contreras Guevara.

1684.—The *Audiencia* of Guatemala in reporting to the King as to the collection of fines in criminal cases, took occasion to compile a detailed list of the towns and villages in Honduras and Chiquimula. It placed in Honduras the district of Gracias á Dios, and therein Quesalica, Intibuca, Camasca, Cerquín, Ocotepeque, and Cucuyagua; and the district of San Pedro Sula, with the settlements of Lemoa (Omoa) and Amatique. In Chiquimula the *Audiencia* does not mention a single village east of the Copan valley and the Motagua River below its confluence with the river Managua. (H. Note, June 22, 1918, *supra*, p. 64; Misc. H. Exh.)

1723.—Acting under a commission of the *Audiencia* of Guatemala, Joseph de Rodesno, one of its *oidores*, investigated the smuggling practiced along the coast of Honduras and in this connection reported on the districts, towns, rivers, bays, and ports in the province of Honduras. The report was referred by the *Audiencia* to the Council of Indies. Rodesno placed in Honduras the Golfo Dulce, the rivers Motagua, Plantanos and Tinto, the ports of Castillo de Golfo Dulce, Omoa, Puerto Cavallos, and Trujillo, and the towns of Gracias, Sta. Cruz de Yoro, and Tencoa. (H. Exh. XXV, No. 3.)

1744.—In this year Luis Diez Navarro, who during 1743–1744 had by Royal order visited the coasts of Central America, compiled the results of his visit in his *Descripción del Reino de Guathemala*, dated Guatemala City, May 30, 1744. He was an Engineer in the Royal army and served as Governor and Captain General of Costa Rica, 1745–1750. His *Descripción*, which was highly esteemed, was printed in Guatemala in 1850 (Peralta, *Costa Rica y Colombia*, pp. 160–161). Diez Navarro, besides presenting a detailed description of the coast of the government of Honduras as far west as Golfo Dulce, lists its chief districts and towns. The following is quoted from his description of the portion of the province where it adjoins Chiquimula (H. Exh. XXV, no. 4, p. 345; Guatemala ed. of 1850, p. 11):

> The entire jurisdiction of the Government of Comayagua or Honduras begins on the coast from the River Motagua already mentioned and ends at the Port of Truxillo * * *. Its Capital is the said City of Comayagua. It has four cities called Gracias á Dios, which is the westernmost; San Pedro Sula to the northwest; San Jorge Olanchito and Sonaguera to the east. The towns nearest the coast are in the *partido* of San Pedro Sula. Candelaria Vieja is a small Indian town which is distant from the Ports of Omoa and Caballos 12 leagues with a fair road * * *. In the *partido* of Lloro is the town of Candelaria Nueva near the River Lean * * *.

1804.—Don Ramon de Anguiano, who had been *gobernador-intendente* of Honduras since 1790, made a report to the King on the condition of his *intendencia*. He specifically states that he did so in

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pursuance of what was ordered by arts. 57 and 58 of the *Ordenanza de Intendentes*. In this report, which Honduras has introduced as evidence (H. Exh. XXV, no. 27), Anguiano gives a list of the sub-delegations into which the *Intendencia* was divided, and the towns, villages, valleys, and parishes contained therein. In the sub-delegation of Gracias á Dios he mentioned San Antonio del Descanso, Intibuca, Camasca, and Quesalica; and in the lieutenancy (*tenencia*) of Sensenti, the mining camp of San Andrés, Labor de Santa Lucia, Jute, Copan Valley, and Ocotepeque. In the sub-delegation of Tencoa he gives the village of Sta. Barbara and the parishes of Tencoa, Aluna, and Porta. Attached to the report is a rough map, a reproduction of which has been offered in evidence by Honduras.

A résumé of Anguiano's Report is contained in Desdevises du Dezert, *Vice-Rois et Capitaines Généreaux des Indes Espagnoles à la fin du XVIII^e Siécle*, in the *Revue Historique*, vol. CXXV, p. 262 *et seq.*

1821.—In March of this year Doctor José Mariano Méndez, who was Chief Priest of the Ciborium of the Cathedral at Guatemala City, and the delegate of the Province of Sonsonate to the Spanish Cortes, presented to the Cortes an elaborate Memorial in support of a plan for the consolidation of the existing fourteen provinces and *intendencias* composing the Kingdom of Guatemala into eight provinces. As one of the eight provinces, Méndez proposed to continue the *Intendencia* of Comayagua, which he described as consisting of two *partidos* divided into nine sub-delegations (*Memoria*, ed. Peralta, p. 249):

> Third, Comayagua, Honduras, *Intendencia* of this name, with the *partidos* of Comayagua and Teguzigalpa, and the nine Sub-delegations of Gracias á Dios, San Pedro Zula, Tencoa, Yoro, Olanchito, Olancho Viejo, Teguzigalpa, Choluteca, and Trujillo. It has 35 curacies in 145 towns and 231 valleys, and 93,501 inhabitants by the census of 1791. Its extent by width and length is more than that of Leon, with six ports on the coasts of the North, which are Omoa, Puerto Caballos, Puerto Sal, Triunfo de la Cruz, Trujillo and Cartago, 130 leagues from the river of the Gulf (*rio del Golfo*), in lands of wild Indians, with the islands of Ruatan and Guanaja, 18 leagues from Trujillo, which are 45 to 50 miles long and six to ten wide. * * * On the south it has the bay of Conchagua, the rivers Nacaome and Choluteca, navigable from the sea to the interior of some towns. * * * In the town of Copan and Los Llanos [the plains] is placed the principal tobacco factory. * * *

The territory of Guatemala proper Méndez proposed should be continued with its existing *alcaldías mayores*, this territory being described by him as follows (*op. cit.*, p. 253):

> Guatemala, capital of the entire kingdom, situate in its center, should remain with the *Alcaldías mayores* of Sacatepequez, Guazacapan and Escuintla, Chimaltenango, Sololá and Verapaz, with 60 curacies in 216 towns, which, according to the census of 1778, count 260,081 inhabitants, in the extent of more than 116

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leagues from the South Sea to the ocean by way of Verapaz, where ports may be opened through the Polochic River, which empties into Lake Izabal and Golfo Dulce. * * *

(5) Colonial land titles.

In other boundary disputes between states the line of possession has been determined by land titles. This is inevitable because there is no higher attribute of sovereignty than the grant of title to lands out of the public domain. In the settlement of the boundary questions which have arisen between the states of the American Union, titles have frequently been offered in evidence, and the Federal Supreme Court has made them a factor in its decisions. Thus in *Maryland* v. *West Virginia* (217 U. S., 1), the Court in adopting as a boundary the so-called Deakins line claimed by West Virginia, rather than the Michler line postulated by Maryland, took into consideration Virginia land grants and even private conveyances which derived from them. On this subject the Court said (pp. 40–41):

This record leaves no doubt as to the truth of the statement contained in the report of the committee of the Maryland Historical Society, that the Deakins line, before the passage of the act under which the Michler line was run, had long been recognized as a boundary and served as such. Even after the Michler line was run and marked the testimony shows that the people generally adhered to the old line as the true boundary line. *There are numerous Virginia grants and private deeds of land given in the record*, which call for this old Maryland line as the boundary. * * *

A perusal of the record satisfies us that for many years occupation *and conveyance of the lands on the Virginia side* has been with reference to the Deakins line as the boundary line. The people have generally accepted it and have adopted it, and the facts in this connection can not be ignored. * * *

In *Indiana* v. *Kentucky* the same Court said (136 U. S., 479, at p. 518):

The long acquiescence of Indiana in the claim of Kentucky, *the rights of property of private parties which have grown up under grants from that State*, the general understanding of the people of both States in the neighborhood, forbid at this day after a lapse of nearly a hundred years since the admission of Kentucky into the Union, any disturbance of that State in her possession of the island and jurisdiction over it.

Land titles have had a like decisive influence in the determination of disputed boundaries in Latin America. The arbitration of the Honduras-Nicaragua boundary under the treaty of October 7, 1894, between these two countries furnishes a direct precedent for the present Mediation. Article II, sec. 5, of that treaty is substantially equivalent to the provision of Article 6 of the Guatemalan-Honduran treaty of 1914. (*Tratados Vigentes de Honduras, Primera Parte*, p. 338.) Nicaragua, in order to establish the boundary between the Bay of Fonseca and Teoteacinte, offered in evidence a land title issued in the year 1720; and King Alfonso in his Award ran the

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line in that sector on the basis of the title. His Award reads (Ramirez F. Fontecha, *op. cit.*, p. 121):

> Considering that in continuing along the bed of the Poteca River up-stream until the confluence of the Guineo or Namasli River is reached, the southern boundary of the estate of Teoteacinte is touched, to which the document presented by Nicaragua and dated August 26, 1720, refers, according to which said estate belonged to the jurisdiction of the city of New Segovia (Nicaragua).

In the present proceeding the land titles introduced in evidence by Honduras have exceptional importance because they serve to demarcate the line of Honduran possession for a considerable portion of frontier, namely, from Cerro Brujo to the parallel of Copan and thence to the Managua River. They effectually negative Guatemala's claim to the entire region east of this line. Guatemala therefore objects strenuously to the consideration thereof by the Honorable Mediator. Her representative has urged several objections. He contends that article 6 of the treaty of 1914 does not expressly mention land titles. The article speaks only of "public documents;" and according to the Guatemalan representative land grants are merely documents of a private character. He further contends that even if land grants were admissible as evidence under the treaty, as private documents they prove no exercise of jurisdiction by the colonial officials of Honduras. (G. Notes, June 25, 1918, pp. 103–105; July 25, p. 192; Sept. 20, p. 284.)

As regards the Guatemalan objection to the admissibility in evidence of the land titles, that has been sufficiently answered in our consideration of the principle of the *uti possidetis* of 1821 as applied to the present proceeding (*supra*, pp. 419–420). That our position is sound is confirmed by the decision of King Alfonso to admit in evidence in the Honduras-Nicaragua award the title to the *Hacienda* of Teotecacinte offered by Nicaragua.

We propose now by a brief review of the colonial legislation to show that land titles not only are public documents but also involve acts of jurisdiction by the local authorities of the province of Honduras.

The Kings of Spain claimed title to the Indies as their personal patrimony, by right of discovery confirmed by the Bull of Pope Alexander VI of May 4, 1493, which divided the new world between them and the Kings of Portugal; and that this right carried with it the free and absolute disposition of the territory of the Indies, so that none could legally have title to lands therein save by grant of the Crown or of its delegates. (*Recop. de Indias*, B. IV, t. 12, l. 14; Pallares, *Legislación Federal Complementaria* (Mexico, 1897), pp. vi–viii.) During the first century and a half of the colonial period the Kings of Spain authorized the presidents of the *Audiencia* of

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Guatemala to make grants of lands within the kingdom; and in the case of lands held by defective or insufficient title enter into *composiciones* (adjustments, against the payment of the assessed value of the acreage involved). (*Recop. de Indias*, B. IV, t. 12, l. 14; and *cédula* of November 1, 1598, set forth in the title to the *Hacienda* of San Nicolas, H. *Land Titles*, pp. 62–64.) The governors of the provinces, Honduras included, had like authority in new lands. (B. IV, t. 12, l. 15 and 16.) But in both cases the Kings reserved the prerogative of confirmation for the validity of such grants. (Orozco, *Terrenos Baldios* (Mexico, 1895), vol. II, p. 768.)

In 1754, in view of the expense of securing royal confirmation, which was so great that few landowners had thus perfected their titles, the system was changed. By the *Real Instrucción* of October 15 of that year (Orozco, *op. cit.*, vol. I, p. 59 *et seq.*; English translation in White, *New Collection of Colonial Laws* (Philadelphia, 1829), vol. II, p. 62 *et seq.*), it was provided that all new grants of lands should be issued by special land judges (called *subdelegados* or *jueces privativos de terrenos*) named by the Captain General in the several provinces, and should thereafter be confirmed by the *Audiencia* (ch. 1 and 10). It was also the duty of the *Audiencia* to confirm compositions (*composiciones*) made by the local land judges with the owners of lands whose existing titles dated later than 1699 and were defective through lack of survey, fiscal valuation, royal confirmation, or through excess of acreage. These compositions were issued in consideration of payments into the Royal Treasury of the assessed value of the lands (ch. 5). Older titles required no *composición* but simply a decree of approval noted thereon by the *subdelegado* (ch. 4.).

The proceedings before the local *subdelegado* or *juez privativo* for the grant of crown lands consisted of (*a*) the petition or denouncement of the interested party; (*b*) the survey and demarcation of the land by the *subdelegado* after citation and hearing of opposing claimants; (*c*) the valuation of the land, as measured and demarcated by the local judge or subdelegate; and (*d*) the payment into the Royal Treasury of the price of sale (*remate*) or composition. Following upon this the docket was remitted to the *Audiencia*, which, after (*e*) hearing the *Fiscal* (Attorney General), (*f*) entered a decree of adjudication (in the case of new titles) or of composition (in the case of old titles). The *juez privativo* also acted as trial court in deciding the merits of opposing claims or other judicial questions, with an appeal to the *Audiencia*, and executed any orders of the *Audiencia* as to further requisites exacted before the title should issue. (Orozco, *op. cit.*, vol. I, pp. 70–75; vol. II, pp. 771–774.) He

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also inserted in the title issued a transcript of his own appointment. (Orozco, vol. I, p. 72.)

The system thus briefly sketched continued in force in the Captaincy General of Guatemala until 1787, when with the extension to it of the *Real Ordenanza de Nueva España* of 1786, the duties and authority of the provincial land judges passed to the *Intendentes* and the power of confirmation devolved upon the *Junta Superior de Hacienda* (Superior Board of the Treasury). See *Ordenanza*, art. 81; Orozco, vol. I, pp. 96–98.

It will be noted that at every stage from the initial petition for sale or composition to the final decree, the public authorities of the kingdom intervened in the grant of land titles; the mere recital suffices to refute the Guatemalan contention that ancient land titles are not public documents. The Spanish text writers are to the same effect. Thus Escriche (*Diccionario Razonado de Legislación y de Jurisprudencia*, s. v. "*Instrumento publico*") says that a public document "in general is every writing authorized by a public functionary in the matters corresponding to his office or employment." Moreover, under the procedure for granting titles to Crown lands the local authorities of the Province in which the lands lay necessarily intervened; and the very fact of their intervention is evidence that the lands were situated in the particular Province. In fact in each title the local subdelegate stated the Province within which the land was located; and since each title went up to the *Audiencia* or the *Junta Superior de Hacienda* for confirmation, the lawful exercise of jurisdiction by the subdelegate was implied.

The grants by the Captain General of lands in Trujillo, instanced by Guatemala in an attempt to show that the land titles produced by Honduras are not proper evidence of Honduran jurisdiction (G. Note of Sept. 20, 1918, *supra*, p. 284), are not in conflict with the *Real Instruccion* of 1754. Trujillo was in the year 1783 for military reasons placed under the direct jurisdiction of the Governor General; and this jurisdiction was held by the King to include the power to make land grants. (G. Exh. No. 4, p. 126.) This power ceased when by *cédula* of September 19, 1816, Trujillo was restored to the direct authority of the *Intendente* of Honduras. (H. Misc. Exh.)

Honduras has put in evidence fifty-three land titles, eleven of which were furnished by the Guatemalan commissioners in the proceedings under the treaty of 1895. Of these, twenty-two are colonial titles; six date from the time of the Federation; and the other twenty-five are modern, except that two of the documents from Guatemalan sources (covering the *Haciendas* of Playon and Pozas y Remudadero, which are disputed by Honduras), were originally surveyed in the colonial epoch. These titles are extracted in the

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volume printed by Honduras for convenience and submitted to the Honorable Mediator.[1]

The Guatemalan representative has especially objected to the admission as evidence of those titles which post-date the year of independence. (G. Note, July 25, 1918, p. 196.) In the opinion of counsel, the Honduran representative has made ample answer in the following passage in his Note of August 27, 1918, pp. 222–223:

> Title deeds issued subsequent to 1821, while they may not serve as evidence that the lands they cover were included in the respective Provinces, prior to the date of Independence, do serve to establish actual possession on the date of their issuance, which carries with it a presumption of indefinite prior possession, until the contrary is proved. This is the case in regard to the title deeds issued prior to the Convention of 1895, and their force increases according to their proximity in date to the Independence, and still more so, if the grants were made at a time when Honduras and Guatemala were both States, members of a single Nation, under a common Federal Government, possessed of sufficient authority to put an end to any differences that might arise between them. (Article 137 of the Constitution of the Federal Republic of Central America, dated November 22, 1824.)

It is confidently submitted that the Honduran *uti possidetis* of 1821 from Cerro Brujo to the Managua River may be determined in detail by the Honorable Mediator on the basis of these land titles, irrespective of the cumulative evidence of other varieties which Honduras has been able to produce.

(6) Ecclesiastical evidence.

Attention has been drawn to the fact that pursuant to the *cédula* of July 24, 1791, which continued in force to the close of the colonial era, the territory of the *Intendencia* of Honduras comprised all the territory of the Bishopric of Honduras. Méndez so stated in his *Memoria* (ed. Peralta, p. 262); it was thus provided in the Honduran State constitutions of 1825, 1839, and 1845; and the Guatemalan Government in the *Instructions* of 1844 to its boundary commissioners so affirmed. (H. Exh. XVII A, *supra*, p. 248.)

In fact it becomes evident from a study of these *Instructions* of 1844 that the Guatemalan Government conceived that the boundary with Honduras would be established by the process of ascertaining the limits of the episcopal jurisdiction in Honduras. The matter is of sufficient importance to warrant an extended quotation. (H. Exh. XVII A, *supra*, p. 249):

> The boundaries of the Bishopric of Honduras and those of any other are well known, as every town, valley, hamlet, estate, and farm knows where it must

[1] In this printed volume will be found extracts from thirteen judicial dockets in civil or criminal proceedings, all but three of which antedate the year of independence. Their effect will hereinafter be discussed in the review of the judicial proofs. At this point they are mentioned because they serve to confirm the facts of Honduran administrative jurisdiction which are indicated in the land titles. All but three arose before 1821; and many of them contain recognition by Guatemalan officials, through positive acts, of the extent of Honduran jurisdiction.

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go for the administration of the sacraments, for its marriages, baptisms, interments, attendance at church, tithes, first fruits, and other religious obligations, and knowing this one knows the political boundaries, which are the same as the ecclesiastical * * *.

The Commissioner shall bear in mind and have at hand the work of Father Juarros, in two volumes, wherein are listed the villages, valleys, estates, rivers, and other peculiarities of the Department of Chiquimula, which is the one bordering on Honduras. There are two sure data; one is that the valley of Copan divides Chiquimula and Honduras, and the other that the Motagua is also a dividing line. *Juarros should be taken as text because he wrote from the end of the past century and the (official) approvals are dated 1803, when no one could suspect the disturbances which subsequently have affected all ideas, to which should be added the great regard for truth and exactness with which he writes, and the scrupulous investigation which he made of every point in his book, especially in matters relating to curacies and parishes, because he had at hand the records of the visits of the archbishop Larraz in the year 1768, and the maps of Mgr. Monroy of 1784, and also the books of the secular and ecclesiastical corporations and the cedularios (collections of cédulas) of both, together with many other official documents.* The pertinent portion of this work of Father Juarros is the chapter on Chiquimula, vol. I, p. 34; Honduras, p. 38; Comayagua, p. 40; ecclesiastical geography, p. 92; table of curacies, p. 98; alphabetical index of places, p. 105, in order to find the villages on the border between Chiquimula and Honduras. In volume II, the chapter on the changes of provinces, p. 37; Chiquimula, pp. 156 to 167 and 171 * * *

If the Mediator will turn to the tables in Juarros, as recommended by the Guatemalan *Instructions* of 1844, he will find (at pp. 96–100 of vol. I) the list of the parishes in the diocese of Guatemala proper. In the parish of Chiquimula, which is that adjoining the diocese of Honduras, are listed the towns of Chiquimula, Esquipulas, Jocotan, San Christoval Acasaguastlán and San Luis Xilotepeques, none of which is east of the line of possession of 1821.

The alphabetical index of all the towns, villages, and valleys of the Kingdom which is stated by the Guatemalan *Instructions* of 1844 to be found in Juarros (vol. I, pp. 105–128), gives the location of each place in both the particular diocese and in the political province or district in which it is found. The index does not place in the diocese of Guatemala proper a single town, village or valley which lies east of the line of *uti possidetis* of 1821.

Juarros (on pp. 103–104 of volume I) gives a table of parishes in the diocese of Honduras which, he says, "has been based upon the report which the Most Illustrious Fray Fernando Cadiñanos, Bishop of Honduras made to his Majesty in the year 1791." The table divides the parishes into those lying in the *partido* of Teguzigalpa and those in the *partido* of Comayagua. The complete list in the latter *partido* is as follows (those bordering on Chiquimula italicized): "La Caridad, Ajuterique, Camasca, Cerquin, Chinacla, Cururu, *Gracias a Dios*, Gualcha, Intibuca, Yoro, *Ocotephque*, Olanchito, Olancho, Petoa, *Quesailica*, *Sensenti*, Siguatepeque, Silca,

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Sonaguera, San Pedro Zula, Sulaco, Tatumbla, Tencoa, Tuima." The Report of Bishop Cadiñanos has been introduced in evidence by Honduras (H. Exh. XXV, No. 13). It was submitted to the Council of Indies which at its meeting of May 16, 1792, resolved that a *cédula* be issued thanking the Bishop for his zeal and recommending that in accord with the *Gobernador-Intendente* of Honduras he take all possible steps to relieve the miserable condition of the people. Thus the report of Bishop Cadiñanos, by reason of its official character and its express approval by the Council of Indies, and also in view of the fact that it was the last episcopal survey made before independence, acquires especial weight. As to its official character, it need only be remarked that the Code of the Indies required prelates to make personal inspection of their dioceses and report thereon. (B. I, t. 7, l. 24.) This report of Bishop Cadiñanos, as brought up to date by Father Juarros shows that the diocese of Honduras extended up to the line of Cerro Brujo—Caulotes—Motagua River here under general consideration. However, the information contained in the report is not sufficient to demarcate the line in detail.

In fact, while the ecclesiastical evidence in general establishes the Honduran claim of jurisdiction, the documents extant are insufficient to fix the boundary in detail. This is confirmed by the fact that the Guatemalan *Instructions* of 1844, as may be seen in our quotation made above, proposed that the commissioners should ascertain the line by taking the testimony of the inhabitants, as to where they went to baptize, marry, bury, pay tithes, etc. (H. Exh. XVII-A, sec. 2); and that nevertheless in the sequel the commission under the treaty of 1845 broke down for lack of ecclesiastical evidence.

Before leaving the consideration of the ecclesiastical evidence in its general aspects, we should draw attention to the fact and reasons for the close correspondence of the territorial limits of temporal and ecclesiastical jurisdiction throughout the history of the Spanish colonies.

It has already been noted that the Kings of Spain regarded the Indies as their personal patrimony, a status which was recognized by the Bull of Alexander VI, issued May 4, 1493. Under that Bull and the Bull of Julius II, of July 28, 1508, the Spanish Kings assumed the duty of converting the Indians and for this purpose the exclusive right of ecclesiastical patronage. The Popes thereafter did not attempt to interfere with the royal control; and they regularly invested with ecclesiastical authority the prelates nominated by the Spanish Kings. (Velez Sarsfield, *Relaciones del Estado con la Iglesia*, p. 20.) The clergy could not leave for America without royal license. (*Recop. de Indias*, B. IX, t. 26, l. 2.) The Council of Indies or the politi-

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cal authority in the colonies decided upon personal capacity for ecclesiastical offices; and even controlled the building of churches (B. I. t. 6, l. 1 and 2). The archbishops and other prelates were ordered to comply with the decrees of the *Audiencia* (l. 35). The Council of Indies could revoke all ecclesiastical decisions. See Velez Sarsfield, *op. cit.*, p. 35, Moses, *Spanish Dependencies*, vol. II, p. 221; Bancroft, *History of Mexico*, vol. III, ch. 32.

The boundaries of the ecclesiastical districts were also subject to civil control. (*Recop. de Indias*, B. I., t. 6, l. 1: Velez Sarsfield, *idem*, pp. 21, 83.) In exercise of this control the Code provided as the organic law that the ecclesiastical and temporal divisions should correspond. Law 7 of t. 2, b. II enacted: "Always taking care that the temporal division shall correspond and conform so far as possible with the spiritual; the Archbishoprics and provinces of the religious with the districts of the *audiencias;* the bishoprics with the *governaciones and alcaldías mayores;* and parishes and curacies with the *corregimientos* and *alcaldías ordinarias.*" The clergy were also required to keep within their prescribed boundaries and districts. (B. I, t. 7, l. 3; Velez Sarsfield, *idem*, p. 118.)

In the beginning, shortly after Honduras was erected into a province, a bishopric was in 1539 created therein, the bishop being a suffragan of the Archbishop of Santo Domingo. (Diez de la Calle, *Memorial* (1646), pp. 127, 176.) The first Bishop of Honduras was that Cristobal de Pedraza, who settled the dispute between the *adelantados*, Montejo and Alvarado, as to who was entitled to the *gobernación* of the Province of Honduras. (Juarros, *op. cit.*, vol. II, p. 181.) The Province of Guatemala was erected into a bishopric in 1534, shortly after its occupation by Alvarado, its metropolitan being the Archbishop of Seville. (Juarros, vol. I, p. 139.) When Mexico was made an archbishopric in 1547 it was given jurisdiction over the diocese of Guatemala, the bishopric of Honduras remaining a suffragan of Santo Domingo. (Juarros, vol. I, p. 129; Moses, *Spanish Dependencies*, vol. II, p. 213.) In 1743 the bishop of Guatemala was made an archbishop, and besides his own diocese acquired metropolitan jurisdiction over the diocese of Honduras, Nicaragua, and Chiapas. (Juarros, *idem.;* Bancroft, *History of Central America*, vol. II, p. 712.)

Such was the situation when in 1787 the *Ordenanza de Intendentes* was extended from Mexico to the Captaincy General of Guatemala. The introduction of the *intendencia* system in Mexico had involved in general no changes in the limits of spiritual jurisdiction. Quite the contrary, from the table of the new *intendencias* appended to the Ordinance, it is apparent that they were to be established one in each bishopric. It has already been noted herein that the same

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theory was applied by the *cédulas* which extended the *Ordenanza de Intendentes* to the Kingdom of Guatemala.

(7) Treaties between Guatemala and Honduras; and negotiations thereunder.

(a) Treaty of August 14, 1839.

In showing that the Guatemalan claim to the Ulua-Fonseca line was untenable, we have already referred to the provision in the treaty of August 14, 1839, which recommended Los Llanos de Santa Rosa in Gracias, as a convenient place for the conference of the Central American Republics called by the treaty (*supra*, p. 413). Here we have an admission by Guatemala in a solemn instrument binding her to Honduras, that the colonial subdelegation of Gracias a Dios lay in the latter Republic.

(b) Treaty of July 19, 1845.

Article 13 of this treaty provided:

> The States of Honduras and Guatemala recognize as their common boundary that laid down for the Diocese of each in the Royal Ordinance of *Intendentes* of 1786, and in order to fix the dividing line in a manner that can not be doubted the two States will appoint their Commissioners * * *.

While this article was abrogated by the treaty of March 1, 1895, it furnishes historical evidence that during the many years that it was in force the high parties recognized that the territorial extent of each State was defined by the limits of the episcopal diocese of each under the system of *intendencias;* and in consequence that the line of *uti possidetis* of 1821 was to be determined by ascertaining the limits of ecclesiastical jurisdiction exercised in the two dioceses. The *Instructions*, prepared in 1844 by order of the Guatemalan Government for the guidance of its boundary commissioner in demarcating the boundary under the treaty, so indicate. They begin by declaring (H. Exh. XVII A, p. 248):

> It must therefore be taken as a basis that the territory of the State of Honduras is that of its bishopric. In the Federal Constitution in Article 7, the territory of each State is not specified. It only provided that a special law would fix the boundaries, which up to the present time has not been done. But in the bases which were published shortly before, on December 17, 1823, the number of towns and places of each one was set forth, as also the population, taken evidently from the work of Father Juarros, although it increased his figures considerably, and from these bases it is seen that each State was considered as having the territory of its *intendencia*.

The *Instructions* then provide detailed directions for the course to be taken and the evidence to be considered in determining the boundary line. Reference to these directions will be made hereinafter in reviewing the evidence available to establish the several sections of the boundary.

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At this point, when the *Instructions* of 1844, in their general aspect are under consideration, we wish to emphasize that their evidential value can hardly be overestimated. They show that they were prepared with great care. They were drafted by two distinguished Guatemalan publicists whose personal knowledge went back to the closing years of Spanish domination, whose erudition was great and whose devotion to their country was unquestioned. Marure and Larreynaga were not likely to understate the territorial claims of Guatemala.

In short, the *Instructions* of 1844 seem to counsel of Honduras as evidence in the present Mediation of the greatest persuasiveness, as in the nature of an admission by Guatemala against interest and even as an estoppel from greater claim by her at the present time.

(c) Treaties of March 1, 1895, and August 1, 1914.

The effect of these two treaties, particularly as regards the demarcation of the line of the *uti possidetis* of 1821 by the Mixed Boundary Commission under the earlier treaty, between Cerro Brujo and the Portillo de Caulotes, will be considered in the detailed treatment of this sector of the line. They are here mentioned to round out the general account.

(8) Cartographical and geographical evidence.

There can be no doubt that maps and geographical data are admissible evidence in this proceeding. (Treaty of 1914, art. 6.) The Guatemalan representative has objected thereto on the ground that they can have no weight in the face of a *real cédula* such as that of September 8, 1563. (G. Note, Sept. 20, 1918, p. 273.) But in view of the repeal of that decree, such objection is untenable. It is not pretended by Honduras that the testimony of maps and geographers shall prevail against the express terms of royal decrees or other public documents. But to the extent that such testimony is corroborative or helps to define the limits of jurisdiction expressed in public documents, it is entitled to consideration in accordance with the general rules of law. (See *supra*, p. 420.)

In point of fact maps and geographical data have been given effect in the adjustment of most disputed boundaries. The following instances in Latin America may be cited: Award of King Alfonso XIII, 1906, Honduras-Nicaragua arbitration (Ramirez F. Fontecha, *op cit.*, pp. 118–119); Award of Argentine President, Bolivia-Peru arbitration, 1909 (*Am. Journal Int. Law*, vol. III, p. 1035); Award of Chief Justice White, Costa Rica-Panama arbitration, 1914 (*idem.*, vol. VIII, p. 920.) As to the weight given to maps and geographical data by the Supreme Court of the United States in determining boundaries in disputes between the states, see *Louisiana* v. *Mississippi*, 202 U. S. 1, 57.

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Honduras has submitted to the Honorable Mediator seventy-four maps, and has referred to others, which throw light upon the territory in dispute. The maps cover the entire period of the Spanish domination and the period since independence to 1900. They have been gathered from various sources, official and private, from twelve countries. In their selection and evaluation counsel to Honduras, as already noted, have had the benefit of the assistance of Dr. Mary W. Williams. The seventy-four maps submitted are believed by Dr. Williams to be representative of the hundreds which she examined. Her analysis and conclusions may be profitably quoted, it being borne in mind that the texts of the geographers and travelers are, in general, corroborative:

As regards boundaries indicated, the material presented may be divided into five fairly distinct classes, as here given:

A. Ten maps giving to Honduras the whole coast of the Bay of Honduras as far as the boundaries of the present day Belize, also known at various times as British Yucatan or British Honduras:

1. 1527—Spanish Official—Weimar.
2. 1601—Herrera Map, No. 1—Madrid.
3. 1666—Goos—Amsterdam.
4. 1688—Oexmelin—Paris.
5. About 1698—Vooght—Amsterdam.
6. 1699—Gage—London.
7. 1730—Herrera—Madrid.
8. 1757—Dies—Madrid.
9. 1841—Bird Allen—London.
10. 1854—Costello—London.

B. Fifteen maps giving Honduras all territory as far west as the Dulce waterway:

1. 1597—Wytfliet—Louvain.
2. 1625—De Laet—Leyden.
3. 1664-1665—Blaeu—Amsterdam.
4. 17th cent.—Jansomini—Amsterdam.
5. 1720—Delisle—Paris.
6. 1781—Bonne—Paris.
7. 1792—Jefferys—London.
8. 1799—Jefferys—London.
9. 1799—Ruiz—Madrid.
10. 1801—Araoz—Madrid.
11. 1822—Strangeways—Edin.
12. 1828—Hall—London.
13. 1831—Dower—London.
14. 1834—Gulf Dulce—Hydr. Map, British Admiralty.
15. 1834—River Dulce—Hydr. Map, British Admiralty.

C. Thirty-three maps giving Honduras Cape Three Points; also the whole territory drained by the Motagua River system, except that a few omit insignificant portions of said system:

1. 1656—Sanson D'Abbeville—Paris.
2. 17th cent.—Jansomini—Paris.
3. 1696—Coronelli—Venice.
4. About 1700—Visscher—Holland.

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5. About 1700—Morden—London.
6. 1731—D'Annville—Paris.
7. About 1754—Bellin—Paris.
8. 1755—Hinton—London.
9. About 1756—Ottens—Amsterdam.
10. 1762—Kitchin—London.
11. 1764—Bellin—Paris.
12. 1767—Alzate—Mexico or Madrid.
13. 1771—Speer—London.
14. 1775—Jefferys—London.
15. 1779—Kitchin—London.
16. About 1782—Bonne—Paris.
17. 1791—D'Annville—London.
18. 1792—Elwe—Amsterdam.
19. 1793—Bryan Edwards—London.
20. 1809—Guthrie (Carey ed.)—Phila.
21. 1816—Bruë—Paris.
22. 1816—Thompson—Alcedo—Arrowsmith—London.
23. 1816—J. Thomson—Edin.
24. 1818—Bonnycastle—London.
25. 1818—Pinkerton-Hebert—Phila.
26. 1822—Morse—New Haven.
27. 1822—Tanner—Phila.
28. 1823—Baily's Juarros Map.
29. 1824—Caxton—London.
30. 1827—Vandermaelin—Brussels.
31. 1830—Spanish Atlas—Madrid.
32. 1835-1841—Honduras Gulf—Hydr. Map, Br. Adm.
33. 1842—Lizards—Edin.

D. Eight maps giving Cape Three Points and the lower part of the Valley of the Motagua to Honduras:

1. 1826—Arrowsmith—London.
2. 1829—Thompson's Narrative—London.
3. 1832—Bruë—London.
4. 1834—Le Sage—Venice.
5. 1835—Findlay—London.
6. 1841-1842—La Rue—Paris.
7. 1843—Duvotenay—Paris.
8. 1849—Squier—Washington.

E. Eight maps giving the lower part of the Motagua River or the whole of it as the Honduras boundary in the northwest:

1. 1804—Gov. Honduras Anguiano Plan.
2. 1829—Hall—London.
3. 1839—English Coloniz.—London.
4. 1840—British Col. Co.—London.
5. 1847—Dunlop—London.
6. 1850—Disturnell—New York.
7. 1881—Ammen Bizemont—Paris.
8. 1900—Byrne—New York.

A study of the dates of the maps above listed makes it clear that, in general, the earlier maps place Honduras' boundary farther west than the later ones—that with the passage of time Honduras' western boundary from a purely cartographical point of view has retreated towards the east. There is, how-

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ever, scarcely a map in the groups listed of an origin previous to 1821, but gives to Honduras Cape Three Points and virtually the whole of the territory drained by the Motagua on *both* sides of the river. Furthermore, there is considerable evidence that even at a later date Honduras owned all territory at least as far west as the Dulce waterway. Such evidence is supplied by the last maps in Class B, and also by geographical data, including such important works as *Diccionario Geografico Universal*, Barcelona, 1834, and *Bell's System of Geography*, Glasgow, 1847. Indeed, even as late as 1841, in a paper based upon the observations of British naval officers and read before the Royal Geographical Society of London, Captain Bird Allen, of the British Navy, stated definitely that the Sarstoon separated the State of Honduras from Belize.

The several varieties of evidence of a general character which are reviewed hereinabove clearly support the Honduran contention that at the close of the colonial period and for centuries previous thereto the *Intendencia* or Province of Honduras extended at least as far as the line of Cerro Brujo—Cerro Obscuro—Coyoles—Managua River—Motagua River. We propose next to pass to a consideration of the evidence of a more local nature which establishes this line in detail. For convenience of treatment the line will be considered in three sections: First, the southernmost section from Cerro Brujo, through Cerro Obscuro, to Portillo de Caulotes or Coyoles, which is west of and on the parallel of the Copan ruins; second, the middle section, from Coyoles to the Managua and thence along this stream to its confluence with the Motagua River; and third, the northernmost, from the confluence of the Managua and Motagua rivers to the Gulf of Honduras.

Thereafter the Honduran claim to the littoral west of the Motagua River upon the strict principle of the *uti possidetis juris* of 1821 (as defined by the Representative of Guatemala) will be discussed in a separate point.

IV.

THE LINE OF POSSESSION IN 1821 RAN SUBSTANTIALLY FROM CERRO BRUJO THROUGH CERRO OBSCURO TO THE PORTILLO DE CAULOTES OR COYOLES, AND CERRO BRUJO AND CERRO OBSCURO ARE TWO POINTS WHICH HAVE BEEN DEFINITIVELY FIXED BY SUBSEQUENT AGREEMENT OF THE PARTIES.

(1) Cerro Brujo is the point of common boundary of Guatemala, Honduras, and El Salvador.

This is so because of article 16 of the treaty of August 1, 1914, between Guatemala and Honduras. (*Supra*, p. 21.)

The article in question stipulates:

The high contracting parties declare that they recognize as valid the work carried out up to this date by the mixed boundary commission in virtue of

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and in accordance with the convention signed in this city on the 1st of March, 1895, by the plenipotentiaries of both nations.

The treaty of 1895 had provided for a mixed boundary commission, which was to begin its studies and "make upon the frontier all the surveys, operations, and labors, having as a meeting place the town of Ocotepeque" (Art. 2). The mixed commission was organized and met from time to time in the years 1908 to 1910, and recorded its proceedings by minutes. In minute No. 6 of July 16, 1908, is the following memorandum of agreement, pp. 160–161:

It was agreed to record that * * * Cerro Brujo is the particular name of that which marks the common terminus of the three Republics * * *. The mixed commission for determining the boundary between Guatemala and Honduras agreed also to accord a vote of thanks to the Government of El Salvador for the good will with which it consented to collaborate in the work of fixing the aforesaid boundary point, and for the courtesies and attentions which it has seen fit to extend to the commissioners during their entire stay in Salvadorian territory.

The authority of the Guatemalan engineer Urrutia was produced in a telegram from Guatemala City of July 3, 1908, to recognize Cerro Brujo as the meeting point of the three Republics.

In considering the general aspects of the treaties of 1895 and 1914 we have had occasion to demonstrate that the agreement thus reached by the boundary commissioners of the high contracting parties as to the location of the terminal boundary at Cerro Brujo is absolutely binding upon them in the present Mediation.

Cerro Brujo, as thus recently determined, in point of fact substantially accorded with the *uti possidetis* of 1821. It is quite near Atescatempo, which is stated in the Guatemalan Boundary *Instructions* of 1844 as the "point where the three territories of the three states of Guatemala, Honduras, and El Salvador meet." (H. Exh. XVII A, p. 251.)

(2) Cerro Obscuro has also been definitively fixed as a point of the boundary.

Upon this mountain as a boundary point agreement was reached by the mixed boundary commission at their meeting of March 7, 1910. (Minute No. 17, *Tratados Vigentes: Primera Parte*, p. 211 *et seq.*) The agreement is binding upon the parties for the reasons given above as to Cerro Brujo.

(3) The line from Cerro Brujo through Cerro Obscuro to the Portillo de Caulotes or Coyoles is demarcated in detail by evidence of several varieties submitted by Honduras in the present Mediation. The evidence likewise supports Honduran possession behind the line.

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(a) Land titles.

Guatemala's *Instructions* to her boundary commissioner in 1844, after indicating how the initial monument was to be set near Atescatempo, in the point of common boundary of the three republics, expressly recommended that the line be sought by reference to the boundaries of *haciendas* lying along the frontier (H. Exh. XVII A, Sec. 6):

> Sec. 6. In the above manner you shall continue successively along the frontier line between state and state, seeking on one side and the other either a village or a hamlet or an *hacienda* (estate) marking the division * * *. You will arrive at the valley of Copan * * *.

In our consideration of the evidence in its general aspects we have had occasion to show that land grants of the Crown domain are clearly admissible in evidence under the provisions of the treaty of 1914, and furnish, in the light of the precedents of other boundary disputes, one of the most satisfactory and conclusive forms of evidence to demarcate the line.

Starting at Cerro Brujo and proceeding northward along the line of possession are the following *haciendas* forming an unbroken wall to Portillo de los Coyolès or Caulotes, all granted and held as within Honduras:

1885.—Monte Cristo, granted to Ramon Morales. Bounded by Peña Quemada, Malcotal, Chucte, Chuctal, and, on the west, by lands of Guatemala at Cerro del Pelon. (*Land titles*, p. ix.)

1875.—Peña Quemada, granted to Celestino Carranza. Bounded by Las Granadillas and Monte Cristo. (*Idem*, p. ix.)

1878.—Las Granadillas, granted to Celestino Carranza. Bounded by El Comedero, Peña Quemada, Chuctal, and Mojanal, and, on the west, by lands of Guatemala. (*Idem*, p. ix.)

1876.—Comedero, granted to Eleuterio Mata. Bounded by Ejidos (Commons) of Esquipulas, Granadilla and Mojanal, Chaguiton. (*Idem*, p. x.)

1839.—Chaguiton. Bounded by San Cayetano Sesecapa, El Comedero and Las Hojas. (*Idem*, p. x.)

1677.—San Cayetano de Sesecapa, measured in favor of J. Mendes in 1677; newly denounced in 1731 and granted in 1738 to Ignacio Pineda Cabrera. Bounded by Chaguiton, Barbasco y Brea. (*Idem*, p. 1.)

1702.—Barbasco y Brea—situate in the valley of Sesecapa, granted to Antonio Erazo. Bounded by San Cayetano Sesecapa, measured in 1677 (Honduras); and Miramundo (Guatemala) measured in 1794. (*Idem*, p. 6.)

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1863.—Mecatal, measured in 1863; granted in 1864 to Anselmo Dubon. Bounded by La Brea and Barbasco, Ejidos (commons) de Merendón, Pozas, and Miramundo. (*Idem*, p. 15.)

1836.—Ejidos (commons) of Merendon, granted to the Village of Jute. Bounded by Mecatal, Pozas, and Brea. (*Idem*, p. 22.)

1857.—Joconal, measured in 1857 and granted in 1877 to Juan B. Collart. Bounded by Agua Caliente and Los Planes, Ejidos (commons) of Merendon, Playton, and Remudadero y Pozas of Guatemala. (*Idem*, p. 26.)

1845.—Planes, granted to M. V. Molina. Bounded by Joconal, Playon (Honduras), and Remudadero. (*Idem*, p. 30.)

1846.—Leonera, granted to M. Castejon. Bounded by Sulayito, Playon (Honduras), and Curaren. (*Idem*, p. 35.)

1848.—Sulayito, granted to C. Aguilar. Bounded by Cuchilla del Tambor, Los Descombros, Curaren, and Leonera. (*Idem*, p. 39.)

1873.—Cuchilla del Tambor, granted to J. D. Roque. Bounded by San Francisco de Formax, Los Descombros, and Sulayito. (*Idem*, p. 41.)

1847.—San Francisco de Formax, granted to Gregorio Lugo. Bounded by Estancia de San Nicolas, Los Hormillos, Cuchilla del Tambor. (*Idem*, p. 46.)

1730.—Potrero, granted to B. Pinto. Bounded by Estancia San Nicolas, San Nicolas Tolentino, Tapesco de Avila. (*Idem*, p. 77.)

Contiguous to and behind these *haciendas* there are the following, also in Honduranean territory:

1882.—Malcotal, granted to Braulio Cuestas. Bounded by estates Montecristo and Chucte. (*Land Titles*, p. xi.)

1864.—Chucte, granted to Francisco J. Carranza. Bounded by Montecristo and Malcotal. (*Idem*, p. xi.)

1854.—Chuctal, granted to Coronado Moreira. Bounded by Montecristo, La Granadilla, and Mojanal. (*Idem*, p. xi.)

1834.—Mojanal, granted to Coronado Moreira. Bounded by La Granadilla, Comedero, and Chaguiton. (*Idem*, p. xi.)

1834.—Las Hojas, granted to Andres Portillo. Bounded by Chucte, Chuctal, Mojanal, and Chaguiton. (*Idem*, p. xii.)

1836.—Playon, granted to Mateo Villeda. Bounded by Los Planes and Leonera. (*Idem*, p. xiii.)

1878.—Cuajo Seco, granted to Eleuterio Ramirez. Bounded by Playon and Sesesmiles. (*Idem*, p. xiii.)

1878.—Sesesmiles, granted as ejidos (commons) to Playon. Bounded by El Playon, Curaren, and Planadas. (*Idem*, p. xiii.)

1876.—Curaren, granted as ejidos (commons) to the town of Leonera. Bounded by Leonera, Sulayito, and Planadas. (*Idem*, p. xiv.)

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1884.—Planadas, granted as ejidos (commons) to San Jorge. Bounded by Sesasmiles and Curaren. (*Idem*, p. xiv.)

1895.—Los Descombros, granted to Esteban Mejia. Bounded by Sulayito, Cuchilla del Tambor, San Francisco Formax, and Planadas. (*Idem*, p. xiv.)

(b) The evidence of a political and judicial character is to the same effect.

The following instances of acts of administrative and judicial authorities of Honduras and Guatemala, which are extant, confirm the line as established by the land titles:

1582.—Report of Governor Contreras Guevara of Honduras. He mentions Gracias and Tencoa as within his jurisdiction. (*Supra*, p. 408.)

1723.—Report of Rodesno, *Oidor* of the *Audiencia*. In his report to the King, Rodesno mentions Gracias and Tencoa as within the province of Gracias, Honduras. (*Supra*, p. 427.)

1782.—Commission of the Captain General of Guatemala, Matias de Galvez, issued January 7 at the *Hacienda de la Majada*, appointing Domingo de Claros Director of the road from Omoa to Guatemala and Governor of the town of Jigua and of the new town to be founded on the *Hacienda del Descanso*. The commission recites that "in order that it shall be effective, it shall be made known to the Governor of this Province [meaning Honduras] and the Lieutenant of the District of Gracias." Thus, besides showing that the estates and towns mentioned (which are situated in the northern portion of the sector here under review) were in Honduras, we here have recognition by the chief executive of the Captaincy General of the fact that they lay in the District of Gracias a Dios, in that Province. (H. Exh. XIX.)

1784.—Jigua and San Antonio del Descanso. The director of these places appointed under the commission mentioned above appealed to the president of the *Audiencia* stating that "the commissary of the town of Quesalica, valley of Bento, who was appointed by the Lieutenant of Gracias not only wants to exercise jurisdiction in the aforesaid towns but even over my person, which does not seem to be proper in view of the commission which your court has issued to me, whereas the said commissary is appointed by the Lieutenant of Gracias." Thus a question of jurisdiction was raised, and the *Audiencia*, after hearing the Solicitor General, decided in favor of the Lieutenant of Gracias, stating in its opinion that the matter had "already been decided by decree of Your Excellency [meaning the Captain General] of October 20th last. In consequence Your Excellency will please order that there be issued a communication directing him to *limit his powers to the pure commission of developing these towns* through the economic and protective media granted to him in his commission,

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without prejudice to the ordinary jurisdiction of the judge of the district, etc."—This constitutes a formal adjudication by the *audiencia*, the highest court, that these places were in the jurisdiction of Gracias, Province of Honduras. (H. Exh. XIX.)

1793.—Judicial. Sesecapa Valley, Ocotepeque, Llano Grande, Jicaro Hueco, Sensenti, and Jute. This is a record in a criminal proceeding had before the court of first instance of Sensenti (Honduras) relative to a crime committed in Sesecapa Valley at the place called Llano Grande and showing in the course of said proceeding the exercise of jurisdiction by the court of Sensenti in all of the places above mentioned. (*Land titles, Judicial documents*, p. 232.)

1804.—Report of the Governor-*Intendente* of Honduras, Don Ramon Anguiano, on the state of his Province (*supra*, p. 427). In the District of Gracias are mentioned San Antonio del Descanso, Intibuca, Camasca, Quesalica.

(c) The ecclesiastical evidence is to the same effect.

In Exhibit XXV (No. 20 *bis.*), filed by Honduras on October 24th, 1918, thirteen ecclesiastical documents are set forth, eight of which correspond to the years 1787–1788; that is to say, the Colonial Period, and five to the years 1821–1839, covering the period of early independence and of the Central American Federation. These documents all show positive acts of ecclesiastical jurisdiction by Honduran bishops and clergy in the section of the line under discussion. They are as follows:

1787.—San Sebastian la Hermita. This is an application by the Bishop of Comayagua (Honduras) to the Captain General of Guatemala for an order directing the removal of certain Indians properly belonging in Guatemala Province, who had settled in San Sebastian la Hermita, Honduras. The petition was granted.

1787.—Petoa, San Francisco, Gracias a Dios, and San Marcos Valle. This is a record of the marriage of L. Z. and A. M. D., residents of Petoa, in the bishopric of Comayagua (Honduras), showing that ecclesiastical proceedings were had in all four places above mentioned.

1787.—Petoa. This is a record of the marriage of F. I. M. and R. A., similar to the preceding one.

1787.—Gracias a Dios. This is a record of the marriage of J. T. and L. L., similar to those preceding.

1787.—Valle de Las Flores in the parish of Gracias. This is a record of the marriage of V. N. and L. P., similar to those preceding.

1787.—Llanos in the District of Quesalica. This is a record of the marriage of G. C. and L. G., similar to those preceding.

1787.—Quesalica. This is a record of the marriage of V. P. and J. R., similar to those preceding.

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1788.—Quesalica. This is a record of the marriage of J. T. and L. L., similar to those preceding.

1788.—Petoa. This is a proceeding for the annulment of a marriage had before the ecclesiastical authorities of the bishopric of Comayagua, on the petition of D. S. of the parish of Petoa.

1791.—Report of Fray Fernando Cadiñanos, Bishop of Comayagua, relative to his pastoral visit throughout the diocese. (*Supra*, p. 434.) Among other places listed are Comayagua, San Pedro Sula, Gracias, Choluteca, Tencoa, Petoa, Ocotepeque and Quesalica. The Bishop states the number of confirmations and other ecclesiastical acts which he performed in each parish, amounting to several thousand all told.

1811.—This is a proceeding on the petition of M. S., addressed to Bishop-Governor Manuel Julian Rodriguez del Barranco of Comayagua, for the grant of a tract of land "named La Labor, also known as Quequesque, within the jurisdiction of this bishopric" which petition was granted. This shows the exercise of ecclesiastical jurisdiction at La Labor by the Bishop of Honduras.

1815.—Cucuyagua. This is a record of the proceedings had on the marriage of B. L. and F. F., residents of Cucuyagua, before the Vicar General of the bishoporic of Comayagua (Honduras).

1822.—Cucuyagua. This is a record of the marriage of F. M. and M. A. C., similar to those preceding, with the added circumstance that F. M. in his petition states that he formerly lived in Chiquimula, Guatemala. It also contains a certificate from the priest of Chiquimula, addressed to the parish priest of Cucuyagua in answer to the latter's request for information as to the antecedents of the said F. M.

1829.—Gracias. This is a record of the marriage of J. T. C. and M. D. C., similar to those preceding.

1834.—Petoa. This is a record of the purchase at public sale by one A. A. of the tithes of Petoa, under an instrument executed before Lino Matute, notary public of the General Board of Tithes of Comayagua, dated March 19th of that year.

V.

THE COPAN REGION WAS WITHIN THE LIMITS OF THE INTENDENCIA OF HONDURAS IN 1821.

The Copan Valley, in which were situated the ancient ruins of Copan, furnished a landmark which was well known in the colonial period. In 1576 Garcia de Palacio, *oidor* of the *Audiencia*, as we have already adverted (*supra*, p. 407), visited and described the ruins specifically stating that they lay in Honduras. Toward the end of the period the valley—Los Llanos—had become famous for the ex-

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cellent tobacco there produced and the tobacco industry was a source of considerable revenue to the government. See Governor Anguiano's *Report* (1804); Juarros (1808), *op. cit.*, vol. I, p. 43; Méndez (1821), *Memorial*, Peralta ed., p. 249. These authorities place Copan and Los Llanos in the subdelegation of Gracias a Dios, Honduras.

The valley was throughout colonial times recognized as near the boundary line between Honduras and Guatemala. We turn now to the several varieties of evidence which establish that it lay within Honduras.

(1) The legislation of the Spanish Kings and the Cortes is confirmatory.

It has already been noted that upon the extension to the Kingdom of Guatemala of the *Ordenanza de Intendentes* of New Spain, the Province of Honduras was erected into an *Intendencia* with all the territory of the diocese of Honduras, except Omoa (*cédula* of July 24, 1791); Omoa being later restored by the *cédula* of 1818 to the direct jurisdiction of the *Intendente*. It has also been shown in general terms that the ecclesiastical, and therefore the political, jurisdiction of Honduras included the subdelegation of Gracias a Dios (*supra*, pp. 433–435). That the Copan Valley lay within Gracias a Dios is shown by the several varieties of evidence herein considered.

(2) The acts of the Governors, and later the Intendantes, and of other officials of Honduras establish Honduran jurisdiction over the Copan region.

(a) The following evidence of a judicial nature has been filed by Honduras with the Honorable Mediator:

1764.—Certain testamentary proceedings in the administration of the two *Haciendas*, Caparjá and San José Copan, in the Copan Valley, were had before the Lieutenant Governor of Gracias in the Province of Honduras. (*Land Titles*, p. 211.)

1766.—In testamentary proceedings relative to the *hacienda* of Llano Grande or Sesesmiles and the *haciendas* of Hornillos and Petrero, which had been instituted originally at Chiquimula, in Guatemala, where the testator resided, the judge of Chiquimula transferred the proceedings to the court at Gracias in Honduras. (*Idem*, p. 215.)

These *haciendas* are in the Copan region and the act of the local judge of Chiquimula is highly persuasive with reference to the jurisdiction of the Governor of Honduras.

1780.—A parish priest at Jocotan, in Chiquimula, brought a replevin proceeding for a cow before the judge at Gracias, in which he alleged that the cow was on the *haciendas* of Jobo and San Antonio in the Copan Valley. (*Idem*, p. 225.)

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1799.—The judge of Sensenti took judicial cognizance of a proceeding to collect an annuity charged upon the *haciendas* of Estanzuela, Estancia, and Gila, in the Valley of the Copan for the maintenance of chapels. The petitioner was a presbyter of the Archbishop of Guatemala, resident in Chiquimula, who left his own local jurisdiction to institute the proceedings. (*Idem*, p. 233.)

1803.—In certain testamentary proceedings concerning the *hacienda* of Llano Grande, in the Copan region, which had been begun in Chiquimula because the decedent had been resident there, the Chiquimula court referred the matter to the court at Sensenti in Honduras as follows:

"Having been informed that in the Valley of the Copan within *your* [Sensenti] jurisdiction there is an *hacienda* named Llano Grande which remains to be inventoried and appraised, I, therefore, request * * *." (*Idem*, p. 237.)

1804.—Testamentary proceedings in the administration of the *haciendas* of Gila and Casapa in the Copan Valley before the judges of Sensenti and Copan. (*Idem*, p. 242.)

1812.—In this year Presbyter Ramón Lugo, a resident of Esquipulas in Chiquimula crossed over into the *Intendencia* of Honduras and brought suit before the Judge of Sensenti to collect annuities charged on the *Haciendas* of Llano Grande and Copan in the Copan Valley to maintain chapels. The complaint was filed against the owners of the two *Haciendas* and process was issued by the court to summon them to answer. The docket clearly shows that both *Haciendas* lay in the Copan Valley within Honduras. (*Idem*, p. 244.)

1813.—This was a criminal suit filed in the court at Sensenti accusing of robbery one Lugo, residing on the *Hacienda* of Estanzuela in the Copan Valley. The record shows that by reason of an impediment to jurisdiction by the Judge of Sensenti, the *Audiencia* at Guatemala City remitted the complaint to the *Intendente* of Honduras with orders to forward it to the Judge of the next nearest district. The *Intendente* issued an order to the Judge of Copan. (*Idem*, p. 246.)

Here we have the express recogniton of the highest judicial authority in the Kingdom of Guatemala, namely, the *Audiencia*, that the Copan Valley lay in the *Intendencia* of Honduras.

Acts of political jurisdiction such as these, even when not expressly recognized by the colonial officials of the *Audiencia* of Guatemala, are of high probative value. The Governor of Honduras and his subordinate officials had exclusive jurisdiction in the Province or *Intendencia* of Comayagua. The Code of the Indies (Recop. B. V, t. 1, l. 1.) after describing the colonial administrative system, com-

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manded the officials not to step beyond the limits of their jurisdiction, as follows:

> And because one of the best means by which good government is facilitated is the distinction in the boundaries and lands of the province, districts, *partidos* and capitals * * * we order and command the viceroys, *audiencias*, governors, *corregidores* and *alcaldes mayores* to observe the limits of their jurisdictions as they may have been prescribed by the laws of this book, the titles of their offices, the provisions of the superior governors of the provinces, *or by use and legitimate customs introduced*, and they shall not intermeddle to use or exercise their said offices nor acts of jurisdicton in the parts or places where their bounds and territories do not reach * * *.

It may be noted that the law confirmed validity of boundaries established "by use and legitimate customs introduced."

In three of these judicial records (in the years 1766, 1803 and 1813) we have positive recognition by the Guatemalan judicial authorities—under circumstances requiring them to decide the point of jurisdiction—that the Copan region lay in Gracias a Dios, Honduras.

(b) Land titles.

Honduras has produced fourteen titles to *haciendas* situated in the Copan region, from which it appears, as with those lying behind the first sector of the frontier, that the petitions therefor were entertained by the local officials of Gracias a Dios, the *haciendas* were measured and demarcated by them. We have already adverted to the legislation under which these grants were in due course confirmed by the *Audiencia* at Guatemala City. A list of the titles follows:

1628.—Estancia de San Nicolas, granted to Domingo Licarraga. Bounded by Comedero, San Miguel de Copan, formerly known as Petapa, wherein are situate the ruins of Copan, Los Hornillos, and San Francisco de Formax. (*Land titles*, p. 61.)

1722.—Los Hornillos, granted to Josefa Jimenez de Lugo. Bounded by Estancia de San Nicolas, San Francisco de Formax, San Miguel de Copan or Petapa, Carrizalon. (*Idem*, p. 81.)

1729.—Petapa or San Miguel de Copan, measured in 1729, remeasured in 1867. *In this Hacienda are situate the ruins of old Copan and the present-day town of Copan.* The Copan River forms part of its southern and eastern boundary. (*Idem*, pp. 121, 126.)

1875.—Carrizalon, granted as Ejidos (commons) of Santa Rita or Cachapa. Bounded by San Miguel de Copan or Petapa and Llano Grande. In this *Hacienda* is situate the town of Santa Rita or Cachapa. (*Idem*, p. 16.)

1728.—San Nicolas Tolentino, granted to Miguel Pinto de Amberes. Bounded by Tapesco de Avila, measured in 1754, and El Salto, measured in 1730. (*Idem*, p. 102.)

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1737.—Tapesco de Avila, granted to Juan de Castro. Bounded by Coyoles, San Nicolas Tolentino and Potrero. (*Idem*, p. 89.)

This title deed contains the following recitals:

In this estate of Potrero de la Vega on the line of the province of Gracias a Dios, bordering on the province of Chiquimula de la Cierra, with a permit from the Lieutenant of Copan Valley dated February 22, 1754, I, Vicente Machorro, subdelegate judge of land titles of the border provinces, under ample commissions for that purpose conferred upon me by his Highness, Dr. Jacobo de Huerta y Ciguila, of His Majesty's Council, his *Oidor* (Judge) * * * one belonging to the provinces of Zacapa and Chiquimula de la Cierra, issued on the 16th of October of the past year, 1751, and the other, in which the commissions are amplified for the boundaries of the border provinces dated Aug. 23, 1752, and both attested in Guatemala by Domingo Antonio de Ortis, Secretary, etc., of Government and War, do state that for the purpose for measuring these lands which are to be measured *I arrived in company of the witnesses hereto* * * * *on these royal public lands which are named Tapesco de Avila* * * * . There is a hillock of moderate height at the edge of the large river Copan * * * on said hillock I ordered a pile of rocks to be placed, which was the first landmark of this measurement * * *." (*Idem*, p. 98; H. Ex. X.)

1730.—Salto, granted to Pasqual Madrid. Bounded by San Nicolas Tolentino, Tapesco de Avila, and Jutes. (*Land titles*, p. 107.)

1736.—Chaguites, granted to Antonio de Paz Monteros. Bounded by Jutes, and Pexjá measured in 1741. (*Idem*, p. 199.)

1722.—Jutes, granted to A. Arbizu. Bounded by Chaguites, Llano Grande, El Salto, and Tapesco de Avila. (*Idem*, p. 111.)

1729.—Llano Grande, granted to Diego Jimenez. Bounded by Jutes and Salto. (*Idem*, p. 144.)

1781.—Sesesmiles, granted to M. M. Manchame. Bounded by Llano Grande, San Miguel de Copan or Petapa, and Lomas de Agua Fria. (*Idem*, p. 149.)

1888.—Lomas de Agua Fria, granted to Francisco Castillo. Bounded by Sesesmiles, Llano Grande, Chaguites, and Jutes. (*Idem*, p. 148.)

1851.—Managua, re-measured and granted in 1885 to Francisco Fiallos. Bounded by Sesesmiles and Lomas del Agua Fria. (*Idem*, p. 114.)

1896.—Cerron de Llano, granted to Demetrio Hernández. Bounded by San Miguel de Copan or Petapa, Llano Grande, and Salto. (*Idem*, p. 15.)

1628.—Obrage de San José, granted to M. Pinto Amberes. We have been unable to fix its exact location by metes and bounds, but the following extracts from the deed are pertinent. (*Idem*, p. 76.)

Measurement. And the said Indians of said village of Copan having been cited to attend at said measurement * * * it was made in the manner following: *At said Obraxe de San Josephe, which is within the limits of the vil-*

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*lage of Copan, in the jurisdiction of the city of Gracias a Dios, on the second of November, in the year one thousand six hundred and twenty-eight, in the presence of me, Alferez Baltazar Sapena, Commissary Judge for the composition of lands in this jurisdiction * * * being at the edge of the large river of Copan * * * at the cacaguatales of the Indians in front of said village of Copan, Juan Bezerra, the surveyor appointed therefor, commenced the measurement of a caballeria of land * * * * *

The western line of the *Hacienda* of Caparjá served also as the boundary between Honduras and the Guatemalan *alcaldía mayor* of Chiquimula. Honduras has not obtained a copy of the title, but has introduced in evidence the testamentary proceedings had in 1764 by reason of the death of the owner of that *Hacienda* and the *Hacienda* of San José Copan. (*Land Titles*, p. 211.) A reference from Guatemalan sources, to the effect that the *Hacienda* lay on the boundary, will be found in section seven below. This line was in substance recognized by the boundary commission under the treaty of 1895 as forming the modern line of possession (Minute No. 14, of Feb. 23, 1910, *Tratados Vigentes: Primera Parte*, p. 186), and binds the High Parties pursuant to article 16 of the convention of 1914.

(c) Miscellaneous evidence of administrative jurisdiction.

In addition to the official reports of the *Oidor*, Garcia de Palacio (1576), Governor Anguiano (1804), and Deputy Méndez (1821), already cited to show that the Copan region lay in Honduras, the following instances of administrative activity by Honduran officials may be adduced:

1582. Report to the King of Governor Contreras Guevara. (*Supra*, p. 408.) It mentions Copan as lying in Gracias a Dios.

1782. Commission by the Captain General Gálvez as to the upkeep of the road from Omoa to Guatemala and the founding of a town on the *Hacienda* of San Antonio del Descanso. (H. Exh. XIX.) An endorsement on the commission shows that the proposed town was to be located at the foot of the Copan mountain. The document itself directs that the entrance and exits of the said mountain be settled, showing that both sides of the range, which at this point is known as Grita or Gallinero, belonged to Honduras.

(3) The ecclesiastical evidence is to the same effect.

In the report of Fray Fernando Cadiñanos, Bishop of Comayagua, dated 1791, hereinbefore cited at page 434, Sensenti, which is in the Copan region, is listed among the places in his diocese which he visited and where he performed ecclesiastical functions, such as confirmations and the like.

Under date of October 5th, 1867, the Archbishop of Guatemala addressed a communication to the Bishop of Comayagua, Honduras, requesting the latter to obtain information regarding J. D. A., a

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resident of the parish of Esquipulas, Guatemala, formerly "residing at a place called La Estanzuela belonging to Cucuyagua in the diocese of Your Grace," in connection with the marriage of the said J. D. A. to R. C. J., which had taken place in Esquipulas three years before. (H. Exhibit XXV, No. 32.)

A similar communication from the Archbishop of Guatemala, dated July 15th, 1869, was addressed to the Provisor and Vicar General of the bishopric of Honduras, requesting information relative to M. S. P., "born at Ocotepeque, in your diocese, and a resident for four years at El Playon in the jurisdiction of Sensenti." (H. Exhibit XXV, No. 33.) While it is not claimed that these two ecclesiastical documents, dated 1867 and 1869, respectively, are primary evidence that Cucuyagua, Playon, and Sensenti were in the bishopric of Comayagua or Honduras in colonial times, they are persuasive on that point because of the well-known conservatism of the Church, the zealous regard which it entertains toward marriage, and the safeguards with which it surrounds its members in entering upon that state.

The Guatemalan Representative has produced two documents which indicate that in the years 1778 (properly 1768–1769) and 1784 Copan was included in the diocese of Guatemala proper. (G. Note, Sept. 20, 1918, "Index," p 283.) The first document contains the description and map of the Parish of Jocotan, Guatemala, taken from the visit of the Archbishop Cortes y Larraz reciting that Copan lay in the parish mentioned. The other document is a table of towns within the parish of Zacapa, Guatemala, taken in turn from the general table of the archbishopric compiled by Dr. Francos y Monroy in 1784, which placed Copan in that parish. The two documents are entirely reconcilable with the Honduran evidence. By 1808 Copan had again been transferred to the Diocese of Honduras. Juarros in his table of parishes in the Diocese of Guatemala proper, does not mention Copan; and as to that table he expressly states that it is based on the report of Archbishop Cortes y Larraz and the maps of Dr. Francos y Monroy, revised to date (*op. cit.*, vol. I, p. 94):

> The table which we present we have endeavored to adjust to the state which the curacies of this Diocese [Guatemala] have at the present day; since although it has been based upon the records of the visit of the Archbishopric, which the Most Illustrious Dr. Pedro Cortes y Larraz made in the years 1768–1769 and upon the maps of the curacies which the Most Illustrious Dr. Cayetano Francos y Monroy ordered prepared, we have omitted therein the curacies extinguished and added those newly created.

The point is settled beyond a peradventure by the following further passage in Juarros (*Idem*, p. 153 of vol. II, published in 1818):

> This place [Copan], which at the present day only has the title of Valley, is situated on the dividing line of the Provinces of Chiquimula and Comayagua,

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so that at times it has been of the jurisdiction of the former and at times, *as now*, of the latter.

(4) The Treaty of August 14, 1839, recognizes that the Copan region lay in Honduras.

For completeness, reference is again made to the admission by Guatemala involved in this treaty. (*Supra*, p. 437.)

(5) The treaty of July 19, 1845, and Guatemala's Instructions to her Commissioner thereunder are to the same effect.

We have already had occasion to note in discussing in its general aspects the evidence supporting the line of *uti possidetis* of 1821, that by article 13 of this treaty Honduras and Guatemala recognized that their common boundary was that dividing the diocese of each, which boundary they undertook to run by Commissioners to be appointed for the purpose.

In the *Instructions* handed by the Guatemalan Government to its Commissioner there is the clearest admission that the Copan Valley fell on the Honduran side of the boundary. Since the problem of the Honorable Mediator is one of historical reconstruction of the situation in 1821, he is entitled to consider these *Instructions* as contemporary testimony of great persuasiveness. They were prepared by the distinguished Guatemalan publicists, Marure and Larreynaga, whose personal knowledge stretched back to the closing years of the colonies; and they have added weight as evidence because they are in the nature of an admission by Guatemala against interest. On the portion of the line hereunder examination the *Instructions* read as follows (H. Exh. XVII A, pp. 252–258):

SEC. 6. In the above manner you shall continue successively along the frontier line between State and State, seeking on one side and the other either a village or a hamlet *or an estate* (*hacienda*) *marking the division.* * * * You will arrive at the valley of Copan. This valley is the divisor between Guatemala and Honduras, according to Father Juarros, vol. II, p. 153, and has belonged at times to the former and at others to the latter, just as has happened with other towns and provinces. * * * Along Copan there passes a *cordillera*, which commences to the south of Mita, and which is commonly called Merendon, and intersects the Motagua, and extends to the east of the port of St. Thomas, to enter cape Three Points, called Punta de Castilla or Manavique. The dividing line between Honduras and Chiquimula strikes this mountain before it (the mountain) intersects the Motagua, the line passing through the north of the village or hamlet of Chucuyales, and it is a point which should be examined and marked out very scrupulously. This mountain, which the English and French maps call "*The Copan*" and which is not marked continuously in that of Rivera, forms a landmark towards Sensenti, but not in the rest of its course, for which reason it is necessary that the commissioners shall fix precisely the intervening section.

From the point at Chucuyales, following the mountain to the Motagua, it forms a boundary. * * *

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If the Honorable Mediator will read the above excerpt from the 1844 *Instructions* having before him the Arrowsmith map of 1826 and the Brué map of 1832 mentioned therein (they have been reproduced by Honduras for this Meditation), he will be enabled to visualize the boundary in the Copan region as understood by Marure and Larreynaga, even though the maps, in the light of modern data, distort the general geography of the region and badly misplace most of the towns therein.

(6) The Guatemala constitutions, legislation, and acts of jurisdiction since independence are confirmatory.

For completeness we refer again to the evidence furnished by the Guatemalan Constitutions of 1825 and 1845. (*Supra*, p. 412.) In addition to the Guatemalan statutes examined in our revision of the evidence of a general character supporting the Honduran *uti possidetis* of 1821, we wish to draw attention to a Guatemalan law which expressly declares the Copan region to lie in Honduran territory.

On January 16, 1835, the Guatemalan legislature passed a law providing for two scientific expeditions, one to explore the ancient ruins at Tepam and Kiché in Guatemala and the other to explore the Copan ruins in Honduras. Art. 4 enacted:

> The said expeditions shall be aided by the local authorities, who shall be strictly enjoined for that purpose; if that destined *for Copan should have to enter, as is probable, upon the territory of Honduras, a communication shall be addressed to that Government* calling attention to the importance of the work, *in order that it may cause orders to be issued for aiding and facilitating its object.* (H. Exh. XIII, No. 23.)

Col. Juan Galindo, who headed the expedition to Copan, found, as the Guatemalan legislature surmised would be the case, that the ruins lay in Honduras; and accordingly he reported the fact in a note dated Copan, April 26, 1834, to his government. Guatemala in turn transmitted the note to the Government of Honduras requesting facilities for Col. Galindo. Such facilities were ordered. (H. Exh. XIII, No. 25.) In Col. Galindo's note to the Honduran Government, there is an explicit reference to what he found to be the location of the boundary:

> The dividing line between the States of Guatemala and Honduras passes through the *Hacienda* of Caparjá, four leagues before reaching this point (Copán); and so the relics of these ruins are entirely within the boundaries of this State [Honduras].

The following instances of letters rogatory in civil suits and requests for extradition in criminal proceedings made by the Guatemalan authorities or Courts of those of Honduras after the boundary difficulties arose between the two countries, are entitled to considera-

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tion. They are in nature of admissions by Guatemala against interest (H. Misc. Exhs.):

1851.—A petitioner residing at Esquipulas, Guatemala, presented a claim with reference to the *hacienda* of Llano Grande before the court at Esquipulas. This *hacienda* is in the Copan Valley, west of the town of Copan. The Guatemala court transmitted the case to the Honduras court at Santa Rosa on the ground that the Honduras court had jurisdiction and the Guatemala court did not.

1851.—A communication addressed from the "Office of the Commandant of Jocotan (Guatemala)," dated July 12, 1851, addressed to the Municipal Alcalde of Copan, stated as follows: "It being necessary to conduct tomorrow from this point to the interior of your state the prisoner G. C., whom the *Corregidor* of the Department of Chiquimula is transmitting at the request of the government of said state of Honduras, I hereby notify you in advance so that you may at once send someone to the boundary line for the sole purpose of receiving the aforesaid fugitive * * *." Jocotan is in Chiquimula, west of Copan.

1857.—The judicial authorities of Esquipulas addressed a communication to the Mayor of Copan "requesting the apprehension of fugitives who were alleged to have taken possession of a part of the estate of Coyoles in the jurisdiction of Copan."

1857.—The Municipal Court of Esquipulas requested the Mayor of Casapa in Honduras for the extradition of one D. P., a fugitive from justice of Guatemala, who had been captured at Estanzuela, in the State of Honduras, "by the authorities of Copan;" "and that the fugitive is in custody at Casapa [Cachapa]."

It may be noted that it is common in border states, where the central authorities are distant, and prompt means of communication are unavailable, for the border local authorities to deal directly with each other in extradition matters.

1858.—The headquarters of the military district of the town of Esquipulas "requested the Alcalde of Copan to extradite a soldier who was said to be "at a place called Tigre Mountain, in your jurisdiction."

1867.—Guatemalan officials from the President down requested the extradition of certain soldiers alleged to be "in the town of Concepción el Jute, in the hands of officials of Honduras." Concepción el Jute, thus recognized as in Honduras, lies in the Copan region.

(7) The cartographical and geographical data uniformly confirm the inclusion of the Copan region in Honduras.

All the maps, from the earliest colonial times down to signature of the first boundary treaty of 1845 between Guatemala and Honduras, place the Copan region in Honduras. This is true even of the

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modern maps, including those from Guatemalan sources, which indicate the Sierra del Merendón, also called the Espíritu Santo or Copan mountain range, as the boundary between Honduras and Guatemala.[1]

In this connection the scientific expedition which the State of Guatemala sent in 1834 to explore the ruins of Copan, as in Honduras, may be recalled. (*Supra*, p. 455.) Besides Col. Galindo's note to the Guatemalan Government, asking it to obtain facilities for his expedition from the Honduran Government because the ruins of Copan lay in Honduras, the Mediator may be referred to Col. Galindo's letter to the President of the American Antiquarian Society, giving the results of his expedition. From the *Transactions*

[1] It is not an exaggeration to say that the line of the Sierra del Merendón or Espíritu Santo which appears for the first time in the Arrowsmith map of 1826 and in other more modern maps, principally Guatemalan, has no better basis than an historical error into which Thompson fell in his *Narrative of an Official Visit to Guatemala*. At page 321 of this work, Thompson wrote: "Saturday, 9th July [1825]. Being anxious to procure a chart of the divisions of the Five States as newly established, I called on Valle, he being the most likely person to assist my views; in this, however, I was not a little disappointed; it is true that the demarcation had been determined by legislative enactment, but no map had yet been formed to illustrate the new arrangement. We accordingly took one of Arrowsmith's maps which I had brought with me, and pencilled out the divisions in question." Again at p. 450: "A new division of the territories of these states has been made so as to give to each a due portion of seacoast. The accompanying map which I planned with Don José de Valle, and is now first printed, will best show their respective boundaries." Elsewhere we have noted that Thompson was mistaken and that in point of fact no such law was ever passed. (*Supra*, p. 417, n.) While Thompson's book was published in London in 1829, Thompson returned to England from Guatemala in October, 1825 (*Idem*, p. 440); and without doubt he furnished Arrowsmith with the data covering the new boundaries which he supposed to have been enacted by the Central American Congress, because Arrowsmith's map of 1826 shows the same boundary between Guatemala and Honduras, of the Sierra del Merendón, called by him the Copan Mountains, as appears in the map facing Thompson's *Narrative;* and in both maps in an identical manner this boundary crosses the Motagua River shortly above its mouth in order to curve upwards and end inside of Cape Three Points. There is the further corroborative circumstance that Arrowsmith was Thompson's geographer who in 1816 published the Atlas which accompanied Thompson's edition of Alcedo's *Geographical and Historical Dictionary*. It was undoubtedly this 1816 Arrowsmith map which Thompson, as quoted above, had with him on his trip to Guatemala.

A comparison of Thompson's map with Squier's *Map of Central America* of 1849 shows that Squier copied Thompson, although he fell into an additional error as to the location of the mouth of the Motagua River. This last error was corrected by Squier in the map accompanying his *States of Central America* (1858); but the other error showing the boundary along the Espíritu Santo Mountains, or Sierra del Merendón, was repeated, and thus by further copying, found its way into some of the later maps. Guatemalan geographers and the Guatemalan Government were not averse to adopting a boundary which so substantially improved on the line given in the *Instructions* to its boundary commissioner in 1844.

That Squier, who in general is of course a reputable authority, fell into an unconscious error, is plainly indicated by the fact that in the text of his *States of Central America* (p. 68) he says that Copan lies in Honduras, and his maps place Copan to the *east* of the Sierra del Merendón; whereas of course Copan admittedly lies to the *west* of this range.

The Guatemalan Government may be taken to admit that there is no legal foundation for the boundary of the Sierra del Merendón upon the principle of the *uti possidetis* of 1821, because its commissioners in Minute No. 17, dated March 7, 1910, in the proceedings for the demarcation of the line under the 1895 treaty, were reduced to urging this mountain range as the most available natural boundary between the two countries. (*Tratados Vigentes de Honduras: Primera Parte*, p. 227.)

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and Collections of that Society (Cambridge, 1836, vol. II, p. 549), we quote the following reference made by Col. Galindo to the region here under discussion:

* * * Copan has gradually fallen into decay; and is now reduced to a small hamlet, standing near where the brook of Sesemil falls into the Copan River, in the western suburb of the ancient city. This spot is within the modern State of Honduras, being four leagues to the eastward of the boundary with Guatemala, in latitude 14° 15′ north, and longitude 90° 52′ west from Greenwich.

The Mediator may also be referred to Dr. Williams' *Cartographical Report*, where there will be found a further account of Col. Galindo's expedition.

As to the evidence of the location of the boundary line to the west of the Copan, which is contained in Stephens' *Incidents of Travel in Central America, Chiapas and Yucatan* (two volumes, New York, 1841), see the Honduran Exhibit XIII, 24, and Dr. Williams' *Report*. Stephens was sent to Central America by President Van Buren on a diplomatic mission in 1839.

VI.

UPON THE PRINCIPLE OF THE UTI POSSIDETIS OF 1821 HONDURAS IS ENTITLED AT LEAST TO THE LINE OF THE MOTAGUA RIVER FROM ITS CONFLUENCE WITH THE MANAGUA TO THE SEA VIA THE SAN FRANCISCO RIVER, WHICH FORMED THE CHANNEL IN THE COLONIAL PERIOD.

The right of Honduras to this sector of the frontier, upon the principle of the *uti possidetis* of 1821, is established by the several varieties of evidence of a general character collected and discussed in point III. Here it is in order to call attention to the evidence referring to specific localities which confirms the fact of Honduran jurisdiction up to the Motagua River. In this connection it has seemed advisable to collect and discuss the evidence which indicates continued occupation of the region by Honduras since independence. Such evidence in itself involves the presumption that jurisdiction was exercised by Honduras before independence; in addition it bears upon the Honorable Mediator's practical problem of suggesting a compromise line.

(1) The evidence of colonial administration supports this contention.

Under this head attention is called to the following official documents:

1545.—Report of Alonso de Maldonado, President of the *Audiencia* to the King, dated Puerto Cavallos, January 15 of this year, giving a list of offices which had become vacant in the Province of Honduras. The following paragraph is in point (H. Exh. XIII, no. 32):

The list of towns whose offices became vacant in Guatemala by the death of the *Adelantado* Your Majesty already knew prior to my departure, and those

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in this Government of Honduras and Higueras which became vacant are as follows: In the municipal district of the city of Gracias a Dios, the towns of Tencoa, Jamala, and Posta; in the districts of the town of Comayagua, those of Tecosquin, Hexamini, and Quorora; and in the district of the town of San Pedro, those of Naco and Coçumbo * * *.

1563.—*Cédula* of September 8, 1563. This is the *cédula* upon which the Representative of Guatemala has relied in claiming that the boundary is the line of the Ulua River and Fonseca Bay. We have, we believe, demonstrated in point I that so far as this *cédula* purported to include in the Province of Guatemala the territory to the west of this line, it was repealed by the *cédula* of May 17, 1564. But although the earlier *cédula* was repealed, it contains irrefragible evidence that San Gil de Buena Vista was a settlement in the Province of Honduras, which, with the repeal of the *cédula*, continued to remain in the jurisdiction of the Governor of Honduras. For the text of the *cédula*, see pages 404–405 above.

1582.—Report to the King of Contreras de Guevara, Governor of Honduras. (*Supra*, p. 408.) This official specifically states that Tencoa, which is the modern sub-district of Santa Barbara, was within his jurisdiction, as was also the town of Chapulco, which lay near the eastern bank of the Motagua River below its confluence with the Managua River.

1646.—*Memorial* of Diez de la Calle. (*Supra*, p. 409.) In stating that Tencoa and Santo Tomás de Castilla lay within the Province of Comayagua (Honduras), Calle indicates that in the view of the Council of Indies the entire coast region between these two points was under the jurisdiction of the Governors of that Province. Between these two points of course lay the Motagua River.

1684.—Report to the King of the *Audiencia* of Guatemala as to the collection of fines in criminal cases. See page 427 above, where it is shown that the district of San Pedro Sula, with the settlements of Omoa and Amatique (the latter, of course, west of the Motagua River) were situated in the Province of Honduras.

1714.—*Real Cédula* of April 30 of this year, which recites that the Mosquito Indians in 1704 "invaded the town of Lemoa [Omoa], district of the Province of Comayagua, from which they carried away the Indians of the vicinity, committing many sacrileges in the church." (H. Exh. XX.)

1723.—Report of *Oidor* Rodesno to the *Audiencia* as to smuggling on the coast of Honduras. (*Supra*, p. 427.) Rodesno places in Honduras all rivers and settlements east of Golfo Dulce.

1744.—Report of Engineer Diez Navarro. (Supra, p. 427.) This is the first official document which mentions the Motagua River as the western boundary of the Province of Honduras proper.

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1752.—Order of the Governor of Honduras to the Treasury officials at Comayagua to make payment for the construction of a brig on the Motagua River. (H. Exh. XXV, no. 6.)

1770.—*Cédula* to the President of the *Audiencia* of Guatemala approving orders given by him during his visit to the Port of Omoa. The *cédula* mentions San Pedro Sula, Gracias a Dios, and Tencoa as belonging to the government of Honduras; and it refers to the project for reestablishing an *hacienda* at Cuyamel in said government five leagues from Omoa. The Honorable Mediator will note that this *hacienda* lies along the Cuyamel, which empties into the sea between Omoa and the Motagua River. (H. Note, June 22, 1918, p. 65; H. Misc. Exh.)

1782.—Order of Matias Galvez, Captain General of Guatemala. (*Supra*, p. 445.) This order mentions Omoa, in Honduras, as the terminal of the road to Guatemala through Copan whose maintenance was commanded therein.

1804.—Report to the King of *Gobernador-intendente* Anguiano (*supra*, p. 427), which shows that the *Intendencia* of Honduras proper extended west as far as the Motagua River.

1818.—*Real Cédula* of October 16 of this year addressed to the Captain General and President of the *Real Audiencia* of Guatemala, which ordered: "that the said Port of Omoa remain immediately subject to the Government of Comayagua in the manner which it was before its aggregation to Guatemala, without prejudice to the authority which corresponds to you as superior Chief, which you are, of the province." (H. Exh. XII.)

1821.—Report of Deputy Méndez (*supra*, p. 428) is to the same, effect as the Report of Governor Anguiano.

1840.—Note directed by the Honduran Customs Official at Omoa to the Supreme Government of the State of Honduras dated July 29 of this year. This note shows that the mouth of the Motagua River was considered as in Honduran jurisdiction and that the Customs Official of Omoa cleared vessels which proceeded upstream with goods destined for Guatemala and Salvador. The occasion for the note was the fact that the Guatemalan Customs Chief of Izabal had just presumed to clear a vessel arriving in the mouth of the river, instead of limiting himself, as had been the practice theretofore, to collecting a duty of two per cent on the goods destined for Guatemala and Salvador. The Omoa official suggested that his Government communicate with the Government of Guatemala to the end that the dispute be settled diplomatically. (H. Exh. XXV, no. 21.)

(2) The land titles are corroborative.

In the region behind this sector there are only a few grants antedating the year of independence, because the region was very thinly

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settled. In point of fact the colonial authorities maintained only such towns as were necessary to carry on the commerce of Honduras and Guatemala with Spain and to protect that commerce from piratical incursions. Reference is made in the following documents to land titled in Honduras:

1536.—In this year Pedro de Alvarado, after taking over the government of Honduras on the invitation of the colonists made a distribution of lands in San Pedro Sula and also at Chapulco near the Motagua River below its confluence with the Managua. (H. Note, June 22, 1918, p. 63; *Col. de docs. inéditos de Indias*, Vol. XV, p. 27.)

1822.—Deed of sale of a parcel of land in Cuyamel dated Omoa, June 28 of this year, authenticated before the political chief and special delegate of the National Treasury of Honduras in that district. The vendor was the executrix of an estate. This deed is, of course, dated after the year of independence but it necessarily refers to lands titled during the colonial period, since the sale was made on behalf of an estate which could not have been settled in the short period intervening since independence. (H. Exh. no. 20.)

1837.—Likewise, the title deed to the lands of *Hacienda* Cuyamel, issued in Honduras in 1837, which extend to the *Manga Vieja* (old mouth) of the Motagua River. (H. *Land Titles*, p. xvi.)

(3) The ecclesiastical evidence is to the same effect.

It has been noted that the evidence of an ecclesiastical character extant is not sufficient to determine in detail the limits of the *uti possidetis* of 1821. However, the ecclesiastical evidence of a general character, principally the Report of Bishop Cadiñanos in 1791 (*supra*, p. 434); confirms the fact of Honduran jurisdiction to the Motagua River. In addition, the following documents showing specific acts of spiritual jurisdiction may be noted:

1578.—In a report to the King dated Comayagua, April 15 of this year, Pedro Ortiz, Provincial Master, stated: "This Province of Honduras, I am informed, has had no religious Instruction for the Indians and for the present has none except in the Province of Tencoa, where there is a house and monastery of our Lady of Mercy * * *." (H. Exh. XIII, no. 35.)

1842.—*Memorial* of Antonio de Larrazabal, Archbishop of Guatemala. In this report the Archbishop gives the boundaries of the Bishopric of Honduras as follows:

> The diocese includes all of what was formerly the *Intendencia* and is now the State of Honduras. * * * Its boundaries—This State extending from east to west the length of the coast of the sea of the north is bounded on the west by Chiquimula, of the State of Guatemala, and on the south by San Salvador, and on the southeast and east by the State of Nicaragua, and on the north by the Gulf of Honduras. * * * (H. Exh. XIII, no. 48.)

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Although this report is of a date after independence, it is proper evidence in the present proceeding because it refers to the territorial extent of the Bishopric of Honduras as it stood at the close of the colonial epoch. Coming as it does from the highest spiritual authority in Guatemala, who personally participated in the events leading up to independence, the Report has the weight of an admission against interest.

(4) The cartographical and geographical data support the Honduran claim to possession of this sector.

This variety of evidence in its general aspects has been discussed under point III. In its more special reference to the sector of the frontier here under consideration, the testimony of the maps and geographers is covered in the treatment, in point VII below, of the coast region west of the Motagua River. Reference thereto will avoid repetition at this point.

(5) The diplomatic exchanges between Guatemala and Honduras resulting in the treaty of 1895, indicate Honduran possession to the Motagua River.

Under the date of October 10, 1894 the Guatemalan Minister of Foreign Affairs, Sr. Jorge Muñoz, addressed a note to the Honduran Minister of like category in which he requested that the Honduran authorities who were exercising jurisdiction in the village of Los Ranchos and the towns of Santa Cruz, Los Chajales and El Paraiso be immediately removed, on the ground that they lay within the Guatemalan Municipality of La Palmilla, in the Department of Izabal. Sr. Muñoz recited that in March of the preceding year a Guatemalan engineer who had been commissioned to survey public lands which had been denounced by several persons lying between the rivers Morja and Jubuco (that is, on the western slopes of the Sierra del Merendón), was prevented from making such survey by a Honduran Commandant and soldiers. The Guatemalan Minister further complained that a Belgian company was in possession of the property called "La Esperanza" purchased of the Honduran Government and surveyed by an engineer of that Government. This was a tobacco plantation whose Eastern boundary was the Morja River. (*Mensaje del Presidente de Honduras* (Tegucigalpa, 1896), p. 68.)

In his reply, dated November 30, 1894 (*idem*, p. 69), the Honduran Minister, Sr. César Bonilla, stated that quite to the contrary of the Guatemalan allegations, not the Honduran but Guatemalan local authorities had been guilty of an invasion of territory and had arrested the Honduras Commandant and his soldiers; that the Honduran town of El Paraiso had been created a municipality in 1891,

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in compliance with Honduran laws, annexed to which were the villages of Tapesco, Rancho, El Cisne, Santa Cruz, El Chorro, and La Navedad (Los Ranchos), all to the north and northwest of El Paraiso and eight leagues distant from the banks of the Motagua River; and, as regards the plantation "La Esperanza," that was a tract of land with an area of 3,000 blocks (*manzanas*) which had been denounced in the Administration of Copan by the representatives of a Dutch tobacco company and duly surveyed, auctioned, and titled by the Honduran Government in October, 1893. Sr. Bonilla then asserted as the boundary line between the two countries substantially that maintained by his Government in the present Mediation, including the Motagua River; and in support of his assertion referred to various maps, to the texts of the geographers including Juarros, to the titles of lands surveyed by the Sub-delegates of Gracias during more than two centuries and to the *Instructions* (in 1844) of the Guatemalan Government. He contended that there was not a single town or village having Honduran authorities which did not belong to Honduras without dispute; but that if any doubt should arise as to the line, his Government was entirely disposed to settle it in a friendly fashion either by means of a mixed commission or by arbitration.

Out of this offer resulted the convention of 1895. (*Idem*, p. 12.)

Here we have evidence of Honduran possession covering the period between the first boundary treaty of 1845, and the second treaty of 1895.

(6) The *Instructions* to the Guatemalan Boundary Commissioner under the treaty of 1845 also indicate Honduran possession to the Motagua River.

In these *Instructions* the Guatemalan Government gives its Commissioner the following directions (H. Exh. XVII A, sec. 7):

> From the point at Chucuyales [near the confluence of the Managua and Motagua Rivers on the Brué and Arrowsmith maps cited by these *Instructions*], following the mountain to the Motagua, it forms a boundary * * * and also the river to its mouth in the Bay of Omoa or Honduras. This boundary must be fixed as certain because it is so stated by Father Juarros at vol. I, p. 35, and as such has been recognized in the past by usage and custom. Law 1, title 1, Book V of the Indies, provides that with respect to boundaries, that established by use and custom shall be abided by and accepted. It also orders that the one decided upon previously by royal ordinances and superior orders shall be accepted and abided by without doubt or objection. A river is one of the most important means, therefore, even though it should not be proven that it really is. It should be presumed. It is so stated in the Curia Filipica Mar Art. River, No. 18. In case of doubt the ends of the jurisdictions are understood to be divided by the river, as stated by Gregorio Lopez, because it is believed that the river was placed by Nature as an eternal boundary of the sections.

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Here we have an admission of Honduran possession which runs back to the year of independence and confirms the indisputable right of Honduras on the principle of the *uti possidetis* of 1821.

(7) Honduras is entitled to possession up to the San Francisco River, which was the channel of the Motagua River in 1821.

The Guatemalan boundary *Instructions* of 1844 admit that in 1821 the Motagua River emptied into the Gulf of Honduras about fourteen kilometers west of its present mouth; but argue, on the authority of a Spanish text, the *Curia Filipica*, that with the avulsion of the stream to its present channel, Honduras lost and Guatemala acquired title to the territory lying between (H. Exh. XVII A, sec. 8):

> The same Curia [Filipica] states at No. 20 that if the river changes its location from that through which it formerly passed and flowed and takes a new course elswhere, this becomes public, and the owners of the soil lose the same, and the former course ceases to be public, and is acquired by the owners of the land which it adjoins, as is stated in law, because a river has the powers of a judge, who gives and takes away dominion. Such case has occurred with the Motagua, which has changed its course some cords or leagues before reaching its mouth, leaving an islet at the edge of the sea, as is shown by the map published by the Belgian Company, which depicts two streams with the name of Motagüilla and Motagua. From oral information we know that the first was the former river bed which became obstructed with the sand and mud of the freshets; and that the second, which is further east, toward the State of Honduras, is the new one which has opened; if it were thus the soil which has remained in the islet has accrued to Guatemala and has been lost by Honduras, according to the principles and precedents of public law found in the works and established by Heineccius, Grotius, and other publicists, which are not cited because there is no dispute. Measuring this islet which has become dry with the scale stated in the same map, it appears to be from north to south 2½ leagues of 5,000 meters each, which make exactly three leagues of ours * * *.

It appears from the careful examination of the maps and geographies, made by Dr. Williams, that the Motagua River took its present channel—which was the bed of the Rio Tinto—after the year of independence; and that at the end of the colonial period, the river found its way to the Gulf through the bed of the River San Francisco, which is twenty-four kilometers west of the present mouth of the Motagua.

If the Honorable Mediator is satisfied that the Motagua River in the year of independence discharged through the present San Francisco River, the thread of this river is the boundary on the principle of the *uti possidetis juris* of 1821. Otherwise, the boundary is the thread of what was called the Rio Tinto, before the Motagua began to discharge through it. In either result, Honduras is entitled to the intervening territory which was affected by the avulsion of the Motagua River. The principles of international law on this point are settled beyond discussion. The statement of the principles given in

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the *Instructions* of 1844 is erroneous, except in so far as it implies that where a river, which forms an international boundary, gradually shifts through erosion, the boundary shifts with it. We refer the Honorable Mediator to the latest statement of the rule by the Supreme Court of the United States in *Arkansas* v. *Tennessee*, 246 U. S. 158, 173:

> It is settled beyond the possibility of dispute that where running streams are the boundaries between States, the same rule applies as between private proprietors, namely, that when the bed and channel are changed by the natural and gradual processes known as erosion and accretion, the boundary follows the varying course of the stream; while if the stream from any cause, natural or artificial, suddenly leaves its old bed and forms a new one, by process known as an avulsion, the resulting change of channel works no change of boundary, which remains in the middle of the old channel, although no water may be flowing in it, and irrespective of subsequent changes in the new channel. *New Orleans* v. *United States*, 10 Pet. 662, 717; *Jefferis* v. *East Omaha Land Co.*, 134 U. S. 178, 189; *Nebraska* v. *Iowa*, 143 U. S. 359, 361, 367, 370; *Missouri* v. *Nebraska*, 196 U. S. 23, 34–36.

See also the learned opinion of the Attorney General of the United States, in 8 *Opin. A. G.*, 175, wherein with reference to the arcifinious Rio Grande as the boundary between the United States and Mexico, the Spanish and Mexican authorities are collected and the rules of international law as above stated are shown to be (p. 179) "an established element of the laws of Spain and of Mexico."

VII.

UPON THE PRINCIPLE OF THE UTI POSSIDETIS JURIS OF 1821, AS DEFINED BY GUATEMALA IN THIS MEDIATON AND ACCEPTED BY HONDURAS, THE LATTER HAS LEGAL TITLE TO THE FRONTIER UP TO BRITISH HONDURAS.

(1) The coast region west of the Motagua River to Yucatan was in 1821 unorganized territory within the jurisdiction of the *Intendente* of Honduras.

It has been shown that the territorial organization of the *intendencia* of Honduras was definitely fixed by the royal *cédula* of July 24, 1791, which declared it to include the *alcaldía mayor* of Tegucigalpa "with all the territory of its Bishopric, except the port and military post of Omoa"; and that Omoa was restored to the direct control of the *gobernador-intendente* of Honduras by the *cédula* of October 16, 1818. (References, *supra*, pp. 421–422.) The *alcaldía mayor* of Tegucigalpa had been carved out of the Province of Honduras in 1578, following upon the discovery of mines therein; but it had continued under the hierarchical authority of the Governors of Honduras. (H. Exh. XXV, no. 1.) Accordingly, when independence was achieved, the new State of Honduras claimed title to, and incorporated within its territory the *alcaldía mayor* of Tegucigalpa.

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Similarly the *intendente* of Honduras had military and contraband jurisdiction over the unorganized littoral territory lying west of the Motagua River as far as Yucatan, pursuant to the much discussed *cédula* of August 23, 1745. (H. Exh. VIII.) Accordingly, when independence was achieved, that territory continued under the jurisdiction of Honduras.

The construction thus placed by Honduras upon the decrees of the Spanish Kings and especially the 1745 *cédula*, is supported by the award of Alfonso XIII in the Honduras-Nicaragua arbitration, where the identical problem here raised as to the western frontier of Honduras, was settled as to her eastern boundary. By reason of the exact analogy of that arbitration, and therefore of the direct force of the award therein as a precedent in the present Mediation, special attention should be drawn to the following paragraphs of the award (Ramirez F. Fontecha, *op. cit.*, p. 115):

Considering that by virtue of this Royal *Cédula* the province of Honduras was formed in 1791 with all the territories of the primitive province of Comayagua, those of its annexed province Tegucigalpa and the other territories of the Bishopric of Comayagua, thus comprising a region which bounded on the South with Nicaragua, on the southwest and west with the Pacific Ocean, San Salvador, and Guatemala, and on the north, northeast, and east with the Atlantic Ocean * * *.

Considering that as a precedent of what was provided in said Royal *Cédula* of 1791 the demarcation by two other Royal *Cédulas* of Aug. 23, 1745, should be taken into account, in the one naming don Juan de Vera Governor and General Commandant of the province of Honduras, for the command of this province and of the others comprised in all the Bishopric of Comayagua and district of the *Alcaldía Mayor* of Tegucigalpa *and of all the territories and coasts which are comprised from where the jurisdiction of the province of Yucatan terminates to Cape Gracias a Dios* * * *.

As with the new State of Honduras in the case of the *alcaldía mayor* of Tegucigalpa and the unorganized littoral west of the Motagua River, Guatemala upon her evolution into an independent State acquired title to Chiquimula and Verapaz. As has been noted, Verapaz and Chiquimula at the close of the colonial period were still *alcaldías mayores*, under the hierarchical authority of the Captain General and *Audiencia* of Guatemala. They had not achieved autonomy under the system of the *intendencias* as transplanted from Mexico to Central America and quite naturally the new State of Guatemala, upon its organization, claimed sovereignty over them.

The new State of Honduras of course could not oppose this claim; and no question between her and Guatemala would have arisen, if the latter after the year of independence had restricted her pretensions to jurisdiction in Chiquimula and Verapaz to the northern boundaries which were assigned to these *alcaldías mayores* during the colonial epoch. But Guatemala pushed the northern frontiers of Chiquimula and Verapaz forward until they reached the Gulf of

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Honduras. This Guatemala did in the face of the *cédula* of August 23, 1745, under which Honduras on the principle of the *uti possidetis* of 1821 was thereafter entitled to sovereignty over the entire littoral as far as the boundary of the Province of Yucatan.

(2) The Honduran title to the littoral west of the Motagua River is supported by the legislative history of the Province of Honduras.

Neither in the course of the present Mediation nor in the negotiations under the previous boundary treaties with Honduras has Guatemala produced a single *cédula* or other royal order which justified her claim that the *alcaldías mayores* of Chiquimula and Verapaz in colonial times reached the sea coast. A brief review of colonial history will show that in point of fact no such legislation existed.

Following upon the original discovery and conquest, by various *adelantados*, King Carlos V divided the region here under discussion into the Provinces of Honduras (Hibueras), Nicaragua, Yucatan, and Guatemala, in the order named.

Honduras was erected into a province by the *cédula* of November 25, 1525, which appointed Diego Lopez de Salcedo its first governor. (*Colección de documentos inéditos de Indias*, vol. XIV, pp. 47–52.) By this *cédula* the King ignored the claim of Pedrarias Dávila that he was entitled to the province. (Hackett, "Delimitation of Political Jurisdiction in Spanish North America to 1535," *Hispanic American Historical Review*, vol. I, pp. 57, 68.)

Pedrarias was rewarded by the *cédula* of March 16, 1526, appointing him the first Governor of Nicaragua, which thus came into existence as a province. (Peralta, *Costa Rica, Nicaragua y Panama*, p. 719; Hackett, *op. cit.*, p. 68.)

Yucatan came into existence as a province by virtue of a capitulation of December 8, 1526, whereby Francisco de Montejo, a former lieutenant of Hernán Cortés, was given the right to conquer and settle Yucatan and Cozumel. (Hackett, *op. cit.*, p. 58, citing Ancona, *Historia de Yucatan*, pp. 390–396, for the text of the capitulation.) Thus the King carved the Province of Yucatan out of territory claimed by Cortés based on the fact that the latter had touched this coast on his initial voyage from Cuba to Mexico.

Following upon the discovery and conquest of Guatemala that region was erected into a province and Pedro de Alvarado named as Governor and Captain General by *cédula* of December 18, 1527, the Province being taken away from Mexico notwithstanding the claim of Cortés that he was entitled thereto because Alvarado was his Lieutenant. (Juarros, *op. cit.*, vol. II, p. 254; Hackett, *op. cit.*, p. 56.)

It will thus be seen that the Kings of Spain reserved the right freely to apportion the territories of the Indies among their various

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adelantados, the Indies being their personal prerogative under the Bull of Pope Alexander VI. The earliest expressions of this principle are contained in the *cédulas* of King Carlos V dated September 14, 1519, July 9, 1520, and October 22, 1523 (*Colección de documentos inéditos de ultramar*, *Segunda Serie*, vol. IX, pp. 118, 129, 185); and in the *Nuevas Ordenanzas* (Nos. 21 and 31) for the government of the Indies, issued by King Felipe II on November 20, 1542. Garcia Icazbalceta, *Colección de documentos para la Historia de Mexico*, vol. II, pp. 216–217.) These provisions were afterwards reaffirmed in the *Recopilacion de Indias*. (B. III, t. 1, law 1; B. IV, t. 1, l. 14.) Number 31 of the *Nuevas Ordenanzas* of 1542 ordered that no discoverer or populator could enter to discover or populate within the districts which should have been entrusted to or discovered by others; and in case of doubt or difficulty as to the boundaries, that the question be referred to the *audiencia* having jurisdiction. (*Recop. de Indias*, B. IV, t. 1, l. 11.)

Applying these principles to the Province of Honduras, which was the first, in point of time, to be created in Central America, it will be seen that its first Governor, Lopez de Salcedo, acquired jurisdiction over the places which had been settled or discovered in the Province or which thereafter should be discovered therein. The exact language of the *cédula* which appointed him reads: "To you, Diego Lopez de Salcedo * * * for you to have and hold our civil and criminal justice in the cities, villages, and places which at present are populated in said lands, or which might be inhabited thereafter." (G. Note of May 24, 1918, p. 37.) Honduras claims that San Gil de Buena Vista was one of these towns because it had been founded by Gil Gonzales in 1524. (H. Memo., June 22, 1918, p. 60.) Alvarado coming in 1526 found a settlement there; and in 1536 he apportioned lands in the town. (*Colección de docs. inéditos de Indias*, vol. XV, p. 22.) The town was in existence in 1563, for King Felipe II by the *cédula* of September 8, 1563, expressly mentioned that it lay in Honduras. The Guatemalan representative in the present proceeding has not explained away this mention in the *cédula* of 1563. San Gil de Buena Vista was located on Amatique Bay inside of Cape Three Points well to the east of the Motagua River. (See map facing p. lxxii, Bancroft, *History of Central America*, vol. I; H. Map Exh.) Honduras further claims that the jurisdiction of her colonial governors extended westward beyond San Gil de Buena Vista to Yucatan; and that such extent of jurisdiction had been defined as early as 1536. In this year Alvarado so stated in his letter of November 20, to the Council of Indies (H. Exh. III, no. 1); and he and Montejo so recognized in their agreement of 1539, which received the royal approval (Herrera, *op. cit.*, vol. I, p. 194). That the Gov-

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ernors of Honduras continued to exercise jurisdiction up to Yucatan is hereinafter indicated.

Lopez de Salcedo ruled as Governor of Honduras until his death in 1530. The *audiencia* of Santo Domingo, which then had jurisdiction over the province, sent Diego de Albítez to act as Governor pending a proprietary appointment by the King. Albítez died shortly after his arrival in Trujillo naming as interim Governor Andrés de Cereceda, who was Treasurer. Cereceda, except for a short interval, governed until 1536. As a result of his tyrannous conduct the affairs of the colony went from bad to worse until they reached such a pass that the settlers in this year appealed to Alvarado, the Governor of the neighboring Province of Guatemala, to take over the government of Honduras. This Alvarado agreed to do with the result that he settled San Pedro Sula and founded the Port of Cavallos. He also sent his Lieutenant, Juan de Chaves, to seek "a good site almost on the boundary line between Guatemala and Honduras within the limits of Honduras, in order to establish communications between the two governancies." Thus was Gracias á Dios founded. (Pedraza, *op. cit.*, pp. 418–426.) This quotation from Pedraza shows that Alvarado did not undertake to merge the two Provinces of Guatemala and Honduras, but in addition to the government of Guatemala, which he already enjoyed by virtue of the *Real Cédula* of 1527, he assumed the government of Honduras pending approval of his acts by the King. In July or August, 1536, he set out for Spain, whence he returned early in 1539. (Milla, *op. cit.*, vol. I, pp. 277–278, 296–297.)

Meanwhile, Montejo, Governor of Yucatan, who since 1536 had in his possession a royal provision instructing him to proceed to Honduras and govern it until the King should appoint a proprietary governor, took advantage of Alvarado's absence to assume the government of Honduras by virtue of this royal provision. He had not done so previously because of the ill reports which came from Honduras as to its abandoned and unprofitable condition; but he was now moved to do so upon hearing of the order established there by Alvarado and particularly of the discovery of rich mines near San Pedro Sula. When news of Montejo's seizure reached Spain, Alvarado complained to the King, with the result that he brought along with him upon his return to Honduras a *cédula* addressed to Bishop Pedraza, which directed the Bishop to do justice between the two *adelantados*. Pedraza was successful in effecting a settlement, as to which it is sufficient here to recall that Montejo relinquished his claim to the government of Honduras in favor of Alvarado. (For further details see Pedraza, *op. cit.*, pp. 426–433, upon which, as a strictly contemporary narrative, the above account is based.) We have

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already noted that the agreement between the two *adelantados* in 1539 received the royal approval.

Alvarado continued as Governor of both provinces. Upon his death in 1542, the *audiencia* of Mexico named Alonso de Maldonado as interim governor; and it is probable that his appointment was confirmed by the King, because he continued as Governor and also President of the *Audiencia de los Confines*, which had been created by one of the above mentioned *Nuevas Ordenanzas* of 1542, until the year 1548, when he became Governor of Yucatan. (Juarros, *op. cit.*, vol. I, p. 257.) In view of the royal approval which had been given to the agreement between Alvarado and Montejo, whereby the former had become governor of the two Provinces of Guatemala and Honduras, Maldonado notified the local authorities of Honduras of his intention to govern that Province; but as they wished to resume their previous independence of Guatemala, they refused to recognize Maldonado and named as interim Governor Diego García de Célis. Thus Honduras came again to be governed independently of the Province of Guatemala. (Milla, *op. cit.*, vol. I, p. 337.)

That after 1542 Honduras had separate governors, may be deduced from the much discussed *cédulas* of September 8, 1563, and May 17, 1564, which appointed, respectively, as Governors of Guatemala, Luis de Guzmán and Juan Busto de Villega (*supra*, p. 404). The territorial limits assigned to Guatemala within which each of these governors should have jurisdiction were carefully defined with reference to the boundary where the territory of Honduras began, thus showing that neither was to have jurisdiction over the Government of Honduras. This later *cédula* of 1564 of course is that which Honduras in the present Mediation contends to have restored the boundaries for the Province of Honduras which had been established since the time of the first Governor, Lopez de Salcedo. The records extant show that from at least 1589 forward during the balance of the colonial epoch, Honduras had governors distinct from those of the Province of Guatemala. (García Peláez, *Memorias para la Historia de Guatemala*, vol. II, p. 177–180.)

We have already had occasion to note that in 1605, as a result of the piratical incursions from which the Port of Cavallos suffered, the President of the *audiencia*, Criado de Castilla, caused the Port of Sto. Tomás de Castilla to be founded on Amatique Bay inside of Cape Three Points; and that, the new Port having proved impracticable by reason of the desert character of the surrounding county, its inhabitants were removed to a new port of Puerto del Golfo or Castillo de San Felipe, which was opened in Golfo Dulce in 1646. (*Supra*, p. 409, note.)

At some time prior to 1646 the district of Sto. Tomás de Castilla was erected into an *alcaldía mayor*, because Diez de la Calle in his

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Memorial (p. 129) mentions the existence thereof in the jurisdiction of the Province of Honduras. It was called the *Alcaldía mayor* of Amatique after Amatique which had been settled in the early years of the Province of Honduras and afterwards abandoned. (Juarros, *op. cit.*, vol. II, p. 161.) Following upon the abandonment of Sto. Tomás de Castilla, the *alcaldía mayor* of Amatique ceased to have sufficient importance to support the officials making up an *alcaldía mayor;* and accordingly it was suppressed in the early years of the 18th century. (Juarros, *op. cit.*, vol. II, p. 38.) During its existence the *alcaldía mayor* of Amatique was described by Juarros as having the following territorial extent (*op. cit.*, vol. II, p. 160) : " The district of the *alcaldía mayor* of Amatique extended from east to west 35 leagues and 30 leagues from north to south. It is bounded on the south by the Province of Chiquimula, on the north by the Bay of Honduras, on the west by Verapaz and *lands of wild Indians* and on the east by the Province of Comayagua [Honduras]." Juarros then goes on to say that in this *alcaldía mayor*, besides the abandoned towns of Amatique, Jocolo, and Sto. Tomás de Castilla were included the Castillo de San Felipe and Golfo Dulce on which the Castillo was situated.

Thus at some time before 1745 the district formerly organized as the *alcaldía mayor* of Amatique once more became unorganized territory under the direct jurisdiction of the Governor of Honduras, just as the coast region further west which Juarros describes as " lands of wild Indians." This was the condition of the coast region west of the Motagua River when King Felipe V on August 23, 1745, issued the *cédula* whereby he conferred upon Colonel Juan de Vera his commission as Governor of the Province of Honduras and also invested him with military and contraband powers over that region as far as Yucatan. (H. Exh. VII.)

The Guatemalan representative has contended, first, that this *cédula* was revoked by the *cédula* of January 2, 1747, whereby Field Marshal Francisco Cagigal de la Vega was appointed Governor and Captain General of Guatemala and vested with hierarchical military authority over Col. Juan de Vera, as Governor of Honduras, which had been taken from his predecessor because the latter was merely a lawyer; and, second, that even if this were not so, the grant of direct military and contraband jurisdiction to Vera and his successors as Governors of Honduras did not confer political jurisdiction over the coast region west of the Motagua River to Yucatan. (G. Note, June 25, 1918, pp. 107–109, and Note, July 25, p. 199.) The second contention of the Guatemalan representative would have some force if the region in question had been continued to be organized as an *alcaldía mayor*, or even if it had been erected into a *corregimiento*

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and he could produce some *cédula* which incorporated the district in the province or *intendencia* of Guatemala. But, as we have already noted, the only organized government in the region, namely the *alcaldía mayor* of Amatique, had been suppressed in the early years of the century; and so far as the extant evidence shows, if the grant of direct military and contraband authority made in favor of Governor Juan de Vera was enjoyed by his successors up to the close of the colonial period, such grant was sufficient to carry with it, on the principle of the *uti possidetis* of 1821, a right to the territory in question on the part of the new State of Honduras. This military and contraband jurisdiction was precisely that species of jurisdiction which the Captain General of Guatemala had been granted by the Kings over the Ports of Trujillo and Omoa about the same time that Governor de Vera was vested with a like grant of authority over the coast region between the Motagua River and Yucatan. If Trujillo and Omoa had not been restored to the jurisdiction of the *intendente* of Honduras before the close of the colonial period, the Captain General of Guatemala might have laid claim to territorial rights in those places, which, after independence, would have devolved upon the new State of Guatemala by inheritance. Of course, as a matter of fact, the *cédulas* of 1816 and 1818, which restored Omoa and Trujillo to the jurisdiction of the *intendentes* of Honduras, made impossible such a claim. As has already been noted, the interpretation thus put by Honduras on the *cédula* of August 23, 1745, is confirmed by King Alfonso XIII in his Award in the Honduras-Nicaragua arbitration.

The other Guatemalan contention, viz., that the military and contraband jurisdiction conferred upon Governor Juan de Vera was superseded by the *cédula* of 1747 appointing Field Marshal Cagigal de la Vega as Captain General of Guatemala, has no better basis than the forced construction placed by Guatemala on this *cédula* as compared with that of 1745. As against such forced construction is the entirely natural construction suggested by the representative of Honduras, namely, that because Field Marshal Cagigal de la Vega was a military man, he should be re-vested with the hierarchical military authority over the Governor of Honduras inherent in the Captain General of the whole kingdom, which was only accidentally taken away from his predecessor because he was a lawyer.

Against the position thus taken by Honduras in the present Mediation as to her claim to the unorganized territory in question, the only adverse evidence of which we are aware is the statement made by Juarros that Golfo Dulce lay in the Province of Chiquimula and that Chiquimula on the north was bounded by the North Sea. (*Op.*

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cit., vol. I, p. 34.) Any statement of Juarros is, of course, entitled to respectful consideration. But on this particular point it is to be noted that he quotes no *cédula* wherein the limits of Chiquimula are defined; and he does not mention the *cédula* of August 23, 1745.

The Report of the Solicitor General of the Municipality of Comayagua dated October 16, 1820, which was produced by the Representative of Guatemala in an effort to show that the Honduran authorities did not consider that the boundaries of their province had been fixed by the *cédula* of 1745 (G. Note, Sept. 20, 1918, "Index," p. 284), is not in point. The Report was not concerned with the boundaries of Honduras but was intended to show that Honduras as a province was entitled to a provincial legislature independent of Guatemala. To this end Law 15 of Title 1, Book V of the *Recopilación de Indias*, was cited. This law, which codified a *cédula* of October 2, 1528, provided: "It is our will that the islands of the Guanajes, which are distant 10 and 12 leagues from the coast of Honduras, be included within the limits and jurisdiction (*términos*) of the *gobernacion* of Honduras." It will thus be noted that while this law does support the Solicitor's contention that Honduras was a province, it contains no implication whatsoever as to the extent of its territory other than the undoubted fact that these islands from the earliest times were within Honduran jurisdiction.

(3) The Honduran title to this region is also supported by the evidence of the exercise of jurisdiction therein, both political and ecclesiastical.

The littoral between the Motagua River and Yucatan continued unsettled during the colonial period, with the exception of the ports of Sto. Tomás de Castilla on Amatique Bay, and later of Castillo de San Felipe on Golfo Dulce, and with the further exception of the log-cutting settlements established by the British toward the close of the period. For this reason, the extant evidence of Honduran jurisdiction is not as voluminous as that which supports the right of Honduras to the territory east of the Motagua River. It is hereinafter compiled:

1529.—By letter of April 20 of this year, the *Adelantado*, Montejo, conceiving that he had duly performed the capitulation into which he had entered in 1526 for the conquest of Yucatan, requested the King to confirm the grant thereof to him. He named as the proposed boundaries: "from sea to sea, which is from the river Sant Anton, which is before Grijalva to the River Pechín [territory of Honduras] which is on the coast of the North" (H. Ex. XIII, no. 14.) Here we have recognition by a neighboring *adelantado* that the province of Honduras extended up to Yucatan.

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1536.—Letter from the *adelantado*, Alvarado, to the Council of Indies (H. Exh. III, no. 1), which begins:

The Empress, our Lady, ordered me by letter that I should not intermeddle in anything pertaining to the land of Honduras because she had granted that Governancy to Diego Arbitez, and on the other hand the *Adelantado* Montejo comes to settle the land of Cuçumel; and *in these Governancies* [meaning Yucatan and Honduras] *there is embraced all of the coast of the Sea of the North which borders on this Governancy* [Yucatan] in such manner that I can not comply with your Majesty's commands [*i. e.*, to find a port for the Province of Guatemala] without entering upon the territory of these two Governancies meaning Honduras and Yucatan.] * * *

Here is recognition by Alvarado, when he was only Governor of Guatemala, that his Province lay inland and that Honduras adjoined Yucatan.

1537.—Letter to the King from Jerónimo de San Martín, Treasurer of Honduras, dated April 28, 1537 (G. Note, May 24, 1918, p. 43):

I do not know how this [the dispute between Montejo and Alvarado over the Province of Honduras] can be settled and that the remedy for it is to join it [Honduras] with the government of Yucatan, since there is no communication between the great rivers and their branches which go out to sea and the roads are impassable, for which reason no aid can be expected from it since it lacks it for itself; *and farther inland and between them is the Government of Guatemala* * * *

Here we have a witness, provided by Guatemala, who confirms the fact that the Province of Guatemala lay inland adjoining Honduras and Yucatan.

1539.—Letter to the King from Alvarado, dated Gracias a Dios, August 4 of this year, reporting his agreement with Montejo and asking the grant of the government of Honduras in view thereof. (H. Exh. III, no. 2.) Alvarado urged the grant "because it is a matter of importance to the Governancy of Guatemala both because it is in the middle thereof as by the Port of Cavallos which is the nearest thereto that there is."

1582.—The Report of Governor Contreras Guevara of Honduras. He mentions Amatique as within his jurisdiction. (*Supra*, p. 408.)

1583–1608.—In this connection may be mentioned the documents relating to the controversy over the closing of Puerto Cavallos and the opening of Sto. Tomás de Castilla, which admittedly lay in Honduras. (*Supra*, p. 409, note.)

1595.—In this year Pablo Higueras, Lieutenant of the Government of Yucatan, designated Captain Ambrosio de Argüelles to explore the coast of the Bay of Ascensión and to conquer the Indians along the southeastern section of the peninsula to the boundary with Honduras. (H. Note, Aug. 27, 1918, p. 221, quoting Molina Solís, *Historia de Yucatan*, vol. I, p. 240.) Here we have Yucatecan evidence that Honduras extended to the peninsula.

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1620.—Docket in a suit on appeal before the *Audiencia* of Guatemala, to collect certain sums paid in 1605 by the officials of the Royal Treasury at Trujillo, in excess of what has been ordered by the President of the *Audiencia*, Criado de Castilla, for the passage of certain ships of the Spanish fleet from Trujillo to the new port of Sto. Tomás de Castilla. In this order, which is inserted, there is express admission that the new port was under the jurisdiction of the Governor of Honduras. (H. Exh. XXV, no. 2.)

1646.—It has already been noted that Diez de la Calle in his *Memorial*, published in this year, placed the Port of Sto. Tomás de Castilla within the jurisdiction of the Governor of Honduras. (*Supra*, p. 409.)

1693.—Docket which contains the petition of Manuel de la Fuente, presbyter and curate of Sto. Tomás de Castilla and the district of Amatique and chaplain of the infantry of Castillo de San Felipe on Golfo Dulce, for compensation of his services in these capacities; and the favorable action thereon taken by the *Audiencia* of Guatemala. It shows that the coast, at least as far west as Golfo Dulce, was under political jurisdiction of the Governor of Honduras and of the Bishopric of Honduras in matters spiritual; and that the highest tribunal in the Captaincy General so held. (H. Exh. XV.)

1714.—*Real Cédula* of April 30, 1714, which recites that the Mosquito Indians had in 1704 "invaded the town of Amatique near the fortress of Golfo Dulce on the Honduras side." (H. Exh. XX.)

1723.—Report of Joseph de Rodesno, *Oidor* of the *Audiencia* as to smuggling on the coast of Honduras. (*Supra*, p. 427.) As there noted, Rodesno placed in Honduras Golfo Dulce and the Castillo located thereon.

1748.—Letter from Antonio del Castillo, written from Castillo de Golfo Dulce, under date of August 28 of this year, and addressed to Pedro Truco, Lieutenant of the Governor of Honduras, wherein it appears that the latter exercised jurisdiction at this point. This letter also sustains the Honduran interpretation of the Royal *Instructions* of January 3, 1747, to Captain General Cagigal de la Vega, namely, that they did not take away the direct jurisdiction of Juan de Vera, Governor of Honduras, over the coast of Yucatan confirmed by the *cédula* of August 23, 1745, but merely restored the hierarchical authority over him of the Captain General.

1815.—Note of Juan Antonio Tornos, *Gobernador-Intendente* of Honduras to the Minister of State for the Indies, enclosing a map which embraced the coast of the Kingdom of Guatemala from Trujillo to Yucatan. This map placed the boundary of the Province of Comayagua (Honduras) proper to the west of the peninsula of Manabique (Amatique). (H. Note, June 22, 1918, p. 67; H. Misc. Exhs.)

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The *cédulas* of May 23, 1675, and August 27, 1676, which were produced by the Guatemalan Representative (Note, Sept. 20, 1918, Index, confirmatory documents *a* and *b*), to prove that Golfo Dulce belonged to the jurisdiction of Guatemala, do not serve the purpose. At most they indicate that the President of the *Audiencia* was ordered to provision the military force maintained at Puerto del Golfo. Such provisioning was entirely consistent with the jurisdicton by the Governor of Honduras over the region. That this is so shown by the documents of a later date but equal authenticity, described hereinabove, which Honduras has produced.

(4) The Honduran claim is also corroborated by the cartographical and geographical data.

At least ten of the maps submitted in evidence by Honduras, whose dates run from 1527 to 1854, support the contention of Honduras that in colonial times her jurisdiction extended to Yucatan; and that neither Chiquimula nor Verapaz reached the coast. (References, *supra*, p. 439.) In addition should be borne in mind the map of Tornos, the Governor and *Intendente* of Honduras, sent to the Department of State for the Indies in 1815, which indicates the boundary of the Province of Honduras proper to lie west of Cape Three Points. (*Supra*, p. 475.)

The testimony of the geographers and travellers corroborates the Honduran claim to the coast as far as Yucatan. Besides Lopez de Velasco (1574) and Herrera (1601), who have already been called to witness, we refer the Honorable Mediator to the numerous works, covering the colonial period and the early years of the independence, which have been compiled in Dr. Williams' *Report*.

Thus Gardyner, in his *Description of the New World* (London, 1651) says of Honduras (p. 144):

> This Province of the Honduras adjoyneth unto the South part of Yucatan, his coast stretcheth along the North Sea.

Bonnycastle, a captain of the British Engineers, in his *Spanish America* (Philadelphia, 1819), wrote (p. 132):

> The Province of Honduras is a large Province of the Kingdom of Guatemala, and is bounded on the north by the gulf or bay of Honduras, which separates it from the Province of Yucatan; and on the west by Vera-Paz.

Still more specific is the statement of Captain Bird Allen of the Royal British Navy. In his "Sketch of the Eastern Shore of Central America" (*Journal of Royal Geographical Society*, London, 1841), Capt. Allen said (p. 83):

> Through this district the stream Manati, Mulin's River, Stand Creek Sittee, Monkey River, Deep River, Golden Stream, Rio Grande, Moho River, Ternash, and the Sarstum flow; the last divides this settlement from the State of Honduras.

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And he further asserts (p. 88):

> The State of Honduras, one of the five districts comprising the Republic of Central America, joins British Yucatan.

See also the following geographical references compiled by the Representative of Honduras:

1566.—In this year Father Diego de Landa, Bishop of Yucatan, in describing the Province wrote (H. Note, August 27, 1918, p. 220):

> To the east lies Honduras and between Honduras and Yucatan there is a large inlet of the sea, which was called Grijalva Baya de la Ascensión, which is full of islets, in which vessels lose themselves, principally those plying between Yucatan and Honduras. * * *

1728.—Pedro Rivera Marquez, *Continente Americano*, ch. 12 (reproduced as H. Exh. VI), describes the coast from Trujillo to Golfo Dulce and states that it belongs to the Government of Comayagua.

1752.—To the same effect is the account of Capt. Ignacio St. Just of his voyage on the frigate "Flora." (H. Note, June 22, 1918, p. 65; H. Misc. Exhs.)

1787.—Alcedo, *Diccionario Geográfico Histórico.* (H. Exh. XIII, no. 20.) He places in the Province of Honduras, Sto. Tomás de Castilla, Golfete [Golfo Dulce] and Cape Manabique [Three Points].

(5) The treaty of 1859 between Guatemala and Great Britain covering recognition of British sovereignty in Belize is not inconsistent with the Honduran title to what is left of the region.

Counsel for Honduras frankly admit that at the present day the treaty of 1859, followed as it has been by continuous occupation, has foreclosed any claim which Honduras might make against the British Government for the recovery of Belize. But as regards the present controversy with Guatemala over the remainder of the region, from the Sarstoon River to the Motagua, the situation is quite different, if the boundary is to be decided upon the strict principle of the *uti possidetis juris* of 1821 as defined by Guatemala.

Great Britain in the year 1821 was in occupation of Belize under a log-cutting concession obtained from the Spanish King by the treaty of 1763, which expressly reserved his sovereignty over the region. (MacDonald, *Select Charters*, p. 265.) After the Central American colonies broke with Spain, Great Britain in order to realize her policy of acquiring full sovereignty over Belize, was prepared to negotiate a treaty either with Spain or with the Central American Federation formed by her late colonies, whichever would entertain negotiations. Negotiations with Spain, suggested in 1829 by the British premier, were actually broached in 1835 by the British Ambassador at Madrid. But finally the British Foreign Office decided that it would be better to "let the Spaniards quietly

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forget it" and thus to permit to lapse whatever claims and interests the Spanish Government had in the region. (Williams, *Anglo-American Isthmian Diplomacy*, pp. 32-36.) The treaty was finally negotiated with the State of Guatemala, rather than with Honduras, which was hostile by reason of the British occupation of the Mosquito Coast and the Bay Islands involving about half the territory claimed by Honduras. (Williams, pp. 33, 188; *British Parl. Papers*, 1860, Coms., LXVIII, "Correspondence respecting Central America," p. 172.)

There is evidence in the archives of the British Foreign Office that as late as 1837–1848, the Honduran Governor of Trujillo attempted to assert authority in Belize. (Paullin and Paxson, *Guide to Materials in London Archives for the History of the United States*, pp. 192–193.)

As late as 1841 the American Government recognized that Honduras had legal title to the coast up to Yucatan. On August 6 of this year Mr. Webster, Secretary of State, wrote to Mr. Murphy, American Chargé d'Affaires in Central America (Sen. Exec. Docs., 32nd Cong., 2d Sess., Doc. No. 27, p. 12):

> In 1835 the Government of Central America asked for the mediation of this government with that of Great Britain, with the view to restraining the British settlers at Belize, *in Honduras*, from trespassing upon territory beyond the confines allotted to them by the treaties between Great Britain and Spain in regard to that settlement. * * *

There is also evidence, that as recently as 1865, Honduras was in actual occupation of the remainder of this region. The Honduran note of August 27, 1918 (p. 227) quotes a communication addressed under date of October 12, 1865, by the Guatemalan Minister of Government to his colleague of Foreign Affairs, from which it appears that the Guatemalan *corregidor* of Chiquimula, taking advantage of the fact that Guatemala was at war with Honduras, had by force removed the Honduran authorities who were administering four villages in the region of Lake Izabal.

It is not disputed by Honduras that, beginning about the year 1892, with the initial work on the Guatemala Railroad, leading out of Puerto Barrios, Guatemala has been in possession of the region west of the Motagua River.

CONCLUSIONS.

It is submitted that, upon the principle of the *uti possidetis* of 1821, to which the Parties are committed by the boundary convention of 1914 and by the memoranda filed with the Honorable Mediator in this proceeding, the evidence offered by Honduras supports these conclusions:

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(1) In the year of independence the *Intendencia* of Comayagua or Honduras extended westward to the line of Cerro Brujo—Cerro Obscuro—Portillo de Caulotes or Coyoles—Managua River and the River Motagua from its confluence with the Managua to the sea; and this territory was administered by the temporal and spiritual authorities of the *Intendencia*.

(2) The Minutes of agreement of the Mixed Technical Commission under the treaty of 1895, as approved by Article 16 of the convention of 1914 now in force between the Parties, have irrevocably fixed upon Cerro Brujo as the southern terminal of the boundary (this being the common frontier point of Guatemala and Honduras with El Salvador); and upon Cerro Obscuro, a point in the line about 25 kilometers northeast of Cerro Brujo; and have determined the modern line of possession as far north as the Portillo de Caulotes. Honduras contends that in this sector—the first sector treated in this Brief—the boundary of 1821 and the modern line of possession are substantially identical.

(3) The *Intendencia* of Honduras proper also extended in 1821 westward to the line of Portillo de Caulotes—Managua and Motagua Rivers; and this line is substantially the modern line of possession, except that since its completion the Guatemala Railroad has occupied Honduran territory for a short stretch along the confluence of the two rivers. Herein are embraced the second and third sectors of the line as considered in this Brief.

(4) In 1821 the *Intendente* of Honduras also had jurisdiction in the unorganized coast territory west of the Motagua River, up to Yucatan; but British authorities were in occupation of this region beyond the Sarstoon River. In very recent years, Guatemala has occupied a portion of the remainder of this region.

(5) The line of the Ulua River and Fonseca Bay, which is the only boundary claimed by Guatemala in this proceeding, had in the year of independence no legal existence. The *cédula* of September 8, 1563, upon which this line is based, was repealed by that of May 17, 1564, issued eight months later, and all the evidence extant from the colonial period shows that the earlier *cédula* never took effect. Moreover, the 1563 *cédula* is inconsistent with every constitution adopted, and every law passed, by Guatemala since independence, and with the treaties of 1839, 1845, 1895, and 1914, by which Guatemala has been heretofore, or is now, bound to Honduras. Finally, Guatemala has produced no item of evidence establishing possession in the vast region between the line of the Ulua River—Fonseca Bay and the line of Honduran administration whether considered as of 1821 or during later years.

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Following the indication of the Guatemalan Representative, who has insisted that the principle applicable to the boundary here in dispute is that of the strict *uti possidetis juris* of 1821, counsel of Honduras in this Brief have not discussed any considerations of equitable compensations or compromise adjustments based upon the present-day occupation of the Parties. But the attention of the Honorable Mediator is drawn to the fact that the two Republics, pursuant to Article 7 of the Treaty of 1914, are committed to the principle of equitable compensations. No arguments put forward in this Brief on behalf of Honduras should be taken by the Honorable Mediator to limit his freedom of action in suggesting a compromise line which will satisfy the just aspirations of the two Republics and settle this long-standing dispute. The Representative of Honduras and his counsel adhere to the sentiments expressed by the Honorable Mediator in his opening address of May 20, 1918.

New York, November 25, 1918.

ROOT, CLARK, BUCKNER, and HOWLAND,
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Counsel.

SUMMARY OF THE BOUNDARY DISPUTE BETWEEN HONDURAS AND GUATEMALA, SUBMITTED BY THE HONDURAN MISSION.

This question, under discussion between the two countries before the Government of the United States of America as Mediator, which kindly tendered its good offices, may be summed up as follows:

CLAIM OF GUATEMALA.

The representation of that country laid before the mediator a claim which it had not even mentioned before, about a boundary line running from the Ulua River to the Gulf of Fonseca.

It bases that claim on the Royal Order of September 8, 1568, and exhibited as collateral proof eleven documents, which I will not stop to discuss, as they are either not germane to the matter or are devoid of any intrinsic value; but this exhibition has served the purpose of demonstrating that it has no others since it has not produced them, even in the face of those submitted by Honduras.

The said representation confesses that those documents are of small value since it maintains in all its written pleas that the rights of its country rest on the Royal Order of 1563.

That Royal Order was not in force for as much as one day, for the very reason that a few months afterward, on May 17, 1564, it was

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superseded by another. I need not dwell upon a demonstration of this rescission, as the mere perusal of the two orders will suffice to establish the fact.

But even though the Order of 1564 had never been issued and that of 1563 had been put into operation, it would nevertheless have been made inoperative by the Royal Order of 1745, appointing Juan de Vera Governor of Honduras, in which his jurisdiction was made to extend to the Boundary of Yucatan, as it had been for Honduras prior to 1563, proof of which is found in the agreement of Alvarado and Montejo in Cozumel Island in 1536, Pedro de Alvarado's letter of the same year to the Council of the Indies, and the "Demarcation and Division of the Indies" in 1540, originally anonymous but confirmed by Lopez de Velasco in 1576 and fathered in 1601 by Antonio de Herrera, both Chroniclers to the King. The King of Spain's award in the boundary dispute between Honduras and Nicaragua has affirmed the valuation placed upon the Order of 1745.

The aforesaid Order of 1563 would also have been a dead letter because of the "Ordinance of Intendentes" which was applied to the Kingdom of Guatemala in 1787 and assigned to the Province of Honduras the territory held by the Bishopric; and Honduras has submitted a number of ecclesiastic documents showing that all the territory claimed by Guatemala as far as Fort San Felipe on the Gulf of Dulce was within the jurisdiction of the Bishop of Comayagua.

And it would further have been a dead letter because of the Royal Order of 1791, which expressly assigned the same territory to the Bishopric and the Province, except the Port of Omoa, which by another Royal Order of 1818 was returned to Honduras with the same jurisdiction it previously had.

All the documents submitted by Honduras and referred to in the General Index presented to the Mediator on October 24, 1918, concurrently demonstrate the fact that the Royal Order of September 8, 1563, on which Guatemala rests her claim, was not put into operation for even a day in the three centuries that followed its issuance.

CLAIM OF HONDURAS.

The representation of Honduras has claimed the following boundary line from Cerro Brujo, which has been recognized by the Mixed Commission on the border as the point where the boundaries of the two Republics meet that of Salvador, to Cerro Obscuro, also recognized by the same Commission as the common boundary of Honduras and Guatemala, to the Caulotes or Coyoles Gap, to the Managua River, down the stream of that river to the Motagua River, from the confluence of the two rivers to the Gulf of Dulce, following the west

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shore of the Gulf and a straight line running to the corner of the territory of Belize or British Honduras over the Sarstoon River.

The claim may be divided in two parts—one from the Cerro Brujo to the oldest mouth of the Motagua River, and following the stream; the other from that river to Belize.

The first includes the territory held by Honduras since the days of the Conquest up to date, except several places seized by Guatemala after the first two-thirds of the 19th Century, as set forth hereinbelow.

Honduras bases the first part of its claims on all the documents contained in the Index above referred to as establishing her sovereignty east of the Motagua River and the alleged possession, and also on the historical and geographical data referred to in the part of the Order relative thereto and the titles to land surveyed in the Province of Honduras as early as the remote colonial times, as is also clearly shown in the map made for the purpose, all to be found in a printed volume that has been submitted.

On all the foregoing grounds, it is established that Honduras possessed that territory up to 1821, and that therefore it formed the extent of the Province at the time of the Independence. It is also shown that it continued in possession thereof after that time.

The line of present possession drawn by the Engineers of the Mixed Commission as far as the Copán parallel, as it appears in all the maps submitted by Honduras, substantially agrees with the legal title alleged by Honduras, save a rectification of the said line taking in tracts of land belonging to Honduras according to authentic documents which have in fact fallen into the hands of Guatemala as stated in the briefs.

The line of present possession was not drawn from that parallel, but it agrees with the legal titles submitted by Honduras until it reaches the Managua River, as likewise shown in the said maps.

The boundary line which is claimed by Honduras along that river to the oldest mouth of the Motagua is based on:

1. The instructions drawn up by Larreinaga and Marure by order of the Government of Guatemala, admitting the claim of Honduras to the line running over the chain of mountains called Copán, which reaches and crosses the Motagua and follows the other side down to Santo Tomás de Castilla. But Honduras, true to the tradition, and seeking a better defined boundary preferred to reach the Motagua along the Managua River which flows at the foot of the above-named ridge whose slopes were thus left to Guatemala. Larreinaga and Marure, in 1844, when the "Instructions" were issued acknowledged that Honduran territory extended to the Motagua and was in possession up to that moment, citing Father Juarros, who so declared in the early years of the 19th Century. The editorial which

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preceded the publication of the said "Instructions" in the semi-official paper "La Semana," in 1865, shows the importance attached by Guatemala to that document which it then considered to be favorable to its claims which therefore did not go beyond the Motagua River.

2. The town of Chapulco, now in ruins, belonged to Honduras from the beginning of the Conquest, for it is awarded to Bernardo de Cabranes in the partition made in 1536 by don Pedro de Alvarado as Governor of Honduras, and in 1582 the Governor of Honduras included it in his report on the towns of his Province. In order to leave Chapulco in Honduran territory the line must join the Motagua at least along the Managua River and in no other way.

3. Opposite the confluence of the two rivers there is a place called Encuentros, and from that point the Motagua is given none of the many other names which, according to the historians and geographers of the old and modern days, the river has borne and is bearing in its upper course. That at least was the part of the Motagua to which "La Semana" referred in its issue of March 5, 1865, when it published a contract between Honduras and the Guatemala Company which proposed to dig a canal from the Motagua River to La Graciosa, so as to insure the right of navigation on that canal through the course of the river. "La Semana" declares that the Motagua flows through the Departments of Santa Bárbara and Copán, and in order to make this last statement true, as it is, the dividing line must run down the Managua River.

4. From that same confluence at least, the name of Motagua must have been given to that river by the Historians and Geographers, Diez de Navarro in 1744, and Anguiano, Governor of Honduras in 1804, among others, who named it as the boundary of the two former Provinces. And the order for the payment of a schooner built on the river for the account of the Governor of Honduras in 1752 must refer to the same length of the Motagua. That Honduras possessed the territory lying as far as the Motagua River was a truth well known in Guatemala until 1865, as may be seen from the foregoing. Prior to the Boundary Convention of 1895 there had been but one point on the eastern side of the River occupied by Guatemala to Honduras' knowledge. In 1894 an attempt was made to survey land on the Morja River which was not carried out, as the survey had already been made in Honduras on the land called La Esperanza, as will be seen from the diplomatic correspondence of that year on the subject.

The second part of the territory claimed by Honduras had been in the main in the possession of Guatemala since the early days of

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the Independence, with the exception of the part occupied by Honduras between the Motagua River and Izabal Lake, which was wrested from it by the armed forces of Guatemala, which dismissed the authorities of Honduras there, by taking advantage of the state of war existing between the two countries in 1863, according to an official communication entered in one of the Minutes of the Boundary Commission in 1916, on evidence furnished by the Guatemalan Commissioners.

But the legal title of Honduras to that region as far as Belize lies in many undisputable documents named in the General Index as referring to the territory west of the River, but it is not amiss to make a special mention of the most important of these:

1563. Royal Order of September 8, which declared San Gil de Buenavista to belong to Honduras. In accordance with usage the King referred to the whole as it had been in Honduras since the time of the Conquest, and as confirmed in the documents hereinbefore referred to, viz: Agreement of Montejo y Alvarado at Cozumel; Alvarado's letter of 1536, and the "Demarcation and Division of the Indies."

1745. Royal Order appointing Juan de Vera with jurisdiction as far as Yucatan, hereinbefore discussed.

In accordance with the doctrine rightfully upheld by the representation of Guatemala at this Conference, titles of such value as is possessed by these can not be impaired, except by other titles of superior strength, even though Guatemala should have had the territory in the days preceding Independence, and Guatemala has produced none of any kind bearing on prior ownership or possession. On the other hand, Honduras has submitted all those given in its General Index which established its uninterrupted possession of all or part of that territory until the time near the Independence, which are confirmed by all the historical and geographical reports and by all the maps antedating the Independence.

It is there established that by the legal title of sovereignty and under the *uti possidetis juris* of 1821 the region belongs to Honduras.

It is therefore proven that the legal boundary line between the two countries is that claimed by Honduras, from Cerro Brujo to the corner of the Belize territory, on account of the unwarranted cession to Great Britain by Guatemala of the territory held by the Belize Colony as far as its boundary with Yucatan, which, by right, also belongs to Honduras.

The legal boundary line being so laid, the Honorable Mediator may find a way to reconcile the interests of the two parties, so that Guatemala shall not lose her ports and interoceanic railway under the rule of compensations allowed by Article VII of the Boundary Convention of 1914 which governs the matter.

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Under that rule the Honorable Mediator may seek a natural line, preferably a river, as being more stable and classical than any other, and may find it while adjudging at the same time one of the compensations to Honduras.

CARTOGRAPHICAL AND GEOGRAPHICAL REPORT BEARING UPON THE HONDURAN-GUATEMALAN BOUNDARY QUESTION.

By Mary Wilhelmine Williams, Ph. D.

[Baltimore, Md., Sept. 15, 1918.]

Messrs. Root, Clark, Buckner & Howland,
Counsel for the Republic of Honduras,
Emory R. Buckner, Edward Schuster, and Augustine P. Barranco, Esqs., of Counsel,
31 Nassau Street, New York City.

Dear Sirs: I herewith submit my report on the cartographical and geographical data bearing upon the Honduran-Guatemalan boundary question which you did me the honor to entrust for my investigation and report.

During the entire course of my investigation, which commenced early in June and continued until the middle of September, I have constantly had in mind your suggestion that my investigations be made in no narrow, partisan spirit, but in the broader spirit of the historical student, which was due no less to myself than to the High Parties to the mediation and the High Tribunal under whose friendly auspices the proceedings are taking place. I need hardly add that this suggestion voiced my own conception of our duty in the premises and made my task a real pleasure.

It is in that light that I have examined the hundreds of maps within my reach, and in that broad spirit that I have endeavored to frame this report.

I have selected about ninety maps, which I believe are representative of the lot, and herewith submit as an integral part of my report photographic copies of such maps. In the report I have endeavored to describe these maps and comment upon their salient points as bearing upon the disputed boundary. Where the text of the works wherein some of these maps were found contained matter pertinent to the question, extracts have been made, and I have supplemented these in part by extracts from other geographical and historical works, including a few gazetteers.

It has been my aim to make this report a complete and fair account of my investigations, and I trust that it will meet with your approval.

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I wish to acknowledge my indebtedness to Mr. P. Lee Phillips, chief of the Map Division of the Library of Congress, Washington, D. C.; Dr. Isaiah Bowman, director of the Geographic Society of New York; Mr. Archer Huntington, founder of the Hispanic Museum of America; and the librarians of the Map and Manuscript divisions of the New York Public Library, and their respective staffs, one and all, for their uniform courtesy and aid.

MARY W. WILLIAMS.

DEPARTMENT OF HISTORY,
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Baltimore, Md.

September 15, 1918.

CHARACTER IN GENERAL OF THE REPORT.

The available cartographical and geographical evidence relating to the boundary dispute between Honduras and Guatemala is on the whole fairly divisible into two periods, namely, that commencing with the earliest known maps in 1527 to about 1850, and that from about 1850 to the present time. The year 1850 has been selected as the dividing point rather than 1821, which was the year when the Central American States ceased to be Spanish colonies and became independent states, because no material change occurred in the cartography until the latter date.

The exceptions to uniformity in the period from 1527 to 1850 are so few as to be almost unique, and the existence of such exceptions may be explained in virtually every case as due to one of two causes: (1) certain influences too well known to the student of Central American history to need special comment, or (2) misinformation of the cartographers or geographers. This latter misconception is amply testified to in the case of the cartographers by the manifest physical and political errors appearing in their maps, and often the geographers of lesser note appear to have based their statements mainly upon the misconception of the true situation furnished by such erroneous maps.

The following cartographical and geographical report is based upon publications made at close intervals, covering a period of about four centuries, from 1527 to 1905. In the maps and geographical works here considered are represented all of the great geographers of the period covered as well as a number of minor importance. The countries represented in the various publications are twelve in number, namely, Spain, Italy, France, Belgium, Holland, Switzerland.

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Denmark, England, Scotland, the United States, Honduras, and Guatemala.

Most of the materials are the result of private enterprise, but some, especially in the case of the maps and charts, are government publications.

The geographical material corroborates the contemporary cartographical evidence; and in several instances where artificial boundary lines are not given upon the maps this material aids in the interpretation of the maps, particularly in cases where the map-maker and the writer of the geographical text were one and the same person. Primarily for this reason, but also because a considerable part of the geographical data is of a too fragmentary nature for separate classification, all such material has been fitted in with the descriptive notes upon the cartography.

However, the map evidence governs the classification about to be mentioned, while the geographical is subordinate and supplementary. The latter is, however, so important as to deserve careful consideration.

As regards boundaries indicated, the material presented may be divided into five fairly distinct classes, as here given:

A. Ten maps giving to Honduras the whole coast of the Bay of Honduras as far as the boundaries of the present-day Belize, also known at various times as British Yucatan or British Honduras:

(1) 1527. Spanish Official—Weimar.
(2) 1601. Herrera Map, No. 1—Madrid.
(3) 1666. Goos—Amsterdam.
(4) 1688. Oexmelin—Paris.
(5) About 1698. Vooght—Amsterdam.
(6) 1699. Gage—London.
(7) 1730. Herrera—Madrid.
(8) 1757. Dies—Madrid.
(9) 1841. Bird Allen—London.
(10) 1854. Costello—London.

B. Fifteen maps giving Honduras all territory as far west as the Dulce waterway:

(1) 1597. Wytfliet—Louvain.
(2) 1625. De Laet—Leyden.
(3) 1664–65. Blaeu—Amsterdam.
(4) Seventeenth century. Jansomini—Amsterdam.
(5) 1720. Delisle—Paris.
(6) 1781. Bonne—Paris.
(7) 1792. Jefferys—London.
(8) 1799. Ruiz—Madrid.
(9) 1800. Jefferys—London.
(10) 1801. Araoz—Madrid.
(11) 1822. Strangeways—Edinburgh.

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(12) 1828. Hall—London.
(13) 1831. Dower—London.
(14) 1834. Gulf Dulce—Hydr. Map, Br. Adm.
(15) 1834. River Dulce—Hydr. Map, Br. Adm.

C. Thirty-three maps giving Honduras Cape Three Points; also the whole territory drained by the Motagua River system, except that a few omit insignificant portions of said system:

(1) 1656. Sanson D'Abbeville—Paris.
(2) Seventeenth century. Jansomini—Paris.
(3) 1696. Coronelli—Venice.
(4) About 1700. Visscher—Holland.
(5) About 1700. Morden—London.
(6) 1731. D'Annville—Paris.
(7) About 1754. Bellin—Paris.
(8) 1755. Hinton—London.
(9) About 1756. Ottens—Amsterdam.
(10) 1762. Kitchin—London.
(11) 1764. Bellin—Paris.
(12) 1767. Alzate—Mexico or Madrid.
(13) 1771. Speer—London.
(14) 1775. Jefferys—London.
(15) 1779. Kitchin—London.
(16) About 1782. Bonne—Paris.
(17) 1791. D'Annville—London.
(18) 1792. Elwe—Amsterdam.
(19) 1798. Bryan Edwards—London.
(20) 1809. Guthrie (Carey ed.)—Philadelphia.
(21) 1816. Brué—Paris.
(22) 1816. Thompson-Alcedo Arrowsmith—London.
(23) 1816. J. Thomson—Edinburgh.
(24) 1818. Bonnycastle—London.
(25) 1818. Pinkerton-Herbert—Philadelphia.
(26) 1822. Morse—New Haven.
(27) 1822. Tanner—Philadelphia.
(28) 1823. Baily's Juarros Map.
(29) 1824. Caxton—London.
(30) 1827. Vandermaelin—Brussels.
(31) 1830. Spanish Atlas—Madrid.
(32) 1835–1841. Honduras Gulf—Hydr. Map, Br. Adm.
(33) 1842. Lizars—Edinburgh.

D. Eight maps giving Cape Three Points and the lower part of the Valley of the Motagua to Honduras:

(1) 1826. Arrowsmith—London.
(2) 1829. Thompson narrative—London.
(3) 1832. Brué—London.
(4) 1834. Le Sage—Venice.
(5) 1835. Findlay—London.
(6) 1841–42. Lapie—Paris.
(7) 1843. Duvotenay—Paris.
(8) 1849. Squier—Washington.

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E. Eight maps giving the lower part of the Motagua River or the whole of it as the Honduras boundary in the northwest:

(1) 1804. Gov. Honduras Angulano Plan.
(2) 1829. Hall—London.
(3) 1839. English Coloniz.—London.
(4) 1840. British Col. Co.—London.
(5) 1847. Dunlop—London.
(6) 1850. Disturnell—New York.
(7) 1881. Ammen-Bizemont—Paris.
(8) 1900. Byrne and Le Baron—New York.

A study of the dates of the maps above listed makes it clear that, in general, the earlier maps place Honduras' boundary farther west than the later ones—that with the passage of time Honduras' western boundary, from a purely cartographical point of view, has retreated towards the east. There is, however, scarcely a map in the groups listed of an origin previous to 1821, but gives to Honduras Cape Three Points and virtually the whole of the territory drained by the Motagua on *both* sides of the river. Furthermore, there is considerable evidence that even at a later date Honduras owned all territory at least as far west as the Dulce waterway. Such evidence is supplied by the last maps in Class B, and also by geographical data, including such important works as *Diccionario Geográfico Universal*, Barcelona, 1834, and *Bell's System of Geography*, Glasgow, 1847. Indeed, even as late as 1841, in a paper based upon the observations of British naval officers and read before the Royal Geographical Society of London, Captain Bird Allen of the British Navy stated definitely that the Sarstoon separated the State of Honduras from Belize.

Certain miscellaneous matter which appears to require special attention has been placed at the close of the cartographical and geographical notes. This includes the following topics:

1. "Brief commentary upon the names found in the territory in dispute between Honduras and Guatemala."
2. "Misleading use of the name 'Guatemala.'"
3. "Evidence furnished by Stephens' *Incidents of Travel in Central America* regarding the Honduran-Guatemalan boundary."
4. "The change in the course of the Motagua River."

It may be of aid to a better understanding of the data presented in the earlier part of the report to examine topics 1, 2, and 4 before considering the cartographical and geographical notes.

For convenience the maps have been given an arbitrary short title both in this report and on the photographic copies of the maps. Also, the source from which the photographic copies were made is indicated on both maps and reports as follows:

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Lib. of Cong.----------Library of Congress
N. Y. Pub. Lib.----------New York Public Library
Geog. Soc. of N. Y.----------Geographic Society of New York
Hispan. Soc. of Amer.----------Hispanic Society of America, New York
Madrid Archives: The photographic copies were made from certified copies issued by the authorities in Spain from the records of the archives of the Indies or other Government office therein mentioned.

NOTES AND DISCUSSION UPON THE MAPS.

1527.

Short title.

1527—Spanish Official Map (Kohl, ed.)—Weimar. (Lib. of Cong.)

"The Spanish Official Map of 1527" is one of two folding maps in *Die Beiden Ältesten General-Karten von Amerika Ausgeführt in den Jahren 1527 und 1529 auf befehl Kaiser Karl's V.* Im besitz der grossherzoglichen Bibliothek zu Weimar. Erläuteret von Johann George Kohl. Weimar, 1860.

Kohl thinks that this map is the work of Hernando Colon (Ferdinand Columbus), who accompanied his father, Christopher Columbus, upon his fourth voyage when the coast of Honduras was visited. (See text, p. 21.)

The map is of value in connection with the boundary question because the name "higueras" (Honduras) appears upon it, as the name of the province; and the name is so far west upon the map as to give basis for the conclusion that in the early sixteenth century Honduras' jurisdiction extended along the whole coast from the "Gulf of Honduras" eastward.

The map should be studied in connection with the following notes from Kohl's text:

Kohl, J. G., *Die Beiden Ältesten General-Karten von Amerika.*

Kohl comments upon the names appearing upon the map. On the western part of the map of 1527 appear the names "higueras" and "C. de higueras," and upon page 11 of the text the following comments may be found:

Die Karte von 1527 hat den Namen "higueras" nicht blos im "Cabo de h.," sondern auch noch einmal ohne weitern Beisatz als einen Provinz-Namen. Allerdings wurde die ganze Gegend vom Golfo Dulce bis etwas über das Cap Honduras hinaus zur Zeit des Cortes "provincia de las hibueras" (die Provinz des Caps der Calabassen) genannt.

Page 112:

"de navidad" appears next, to the east, after "C. de Higueras." Kohl quotes Herrera as saying that Pinzon and Solis called the whole Gulf of Honduras "la gran Baia de Navidad (Natividad)."

"C. de 3 Puntas," probably discovered and named by Pinzon and Solis.

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"a. de Cavallos," ancon de Cavallos, a name which, according to Herrera, originated with Gil Gonzalez in 1524.

"la fondura," prominent cape discovered by Columbus and named by him "Cabo de Casinas" or "Caxinas." Name changed by Pinzon and Solis to "Cabo de Fonduras" (also written Onduras and Honduras) because of the depth of the water here.

Page 114:

"reegate."

"p. de arrecifes," apparently identical with the present "Cabo de Camarones."

"mar de la tierra," presumably the present Brewer Lagoon.

"S. thome," St. Thomas.

"Cartago."

"artan."

"playa," meaning strand.

"C. de gracias as a dios," Cape Gracias á Dios.

Page 169:

The westernmost name appearing upon the southern coast of Central America is "sierras de gil gonzalez."

1529.

1529—Ribero Map (Kohl, ed.)—Wiemar. (Lib. of Cong.)

Map of Diego Ribero, 1529. This is one of two folding maps in *Die Beiden Ältesten General-Karten von Amerika, Ausgeführt in den Jahren 1527 und 1529 auf befehl Kaiser Karl's V.* In Besitz der Grossherzoglichen Bibliothek zu Weimar. Erläutert von Johann Georg Kohl. Wiemar, 1860.

Kohl in his text comments upon all geographical names appearing upon the map. I have noted the following comments only, which apply to names not appearing in some form upon the Spanish Official Map of 1527. For the other names, see the preceding notes upon the latter map. Upon the map of 1529, unlike that of 1527, the name "Higueras" or "Honduras," as applied to the province, does not appear.

Kohl, *Die Beiden Ältesten General-Karten von Amerika.*

Page 112:

"po. de hallados" (harbor of the found ones—Gefundenen—? or the freed ones?)

"R. de peche" "Entweder 'der Pechfluss' oder der 'Fluss der (fliegenden) Fische;' denn beides kann die alte Form 'peche' oder 'pechi' für pez und pece bedeuten."

"t'ūfo de la c̄z,' Triunfo de la Cruz, or Triumph of the Cross.

"Sierras."

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"R. de Pdidos," Rio de Perdidos, or River of the Lost.

Page 169:

"Guatemala." "Der Name Guatimala, der auf der Karte 1529 vorkommt, wurde zuerst als die Benennung der Residenz und Stadt ("cuidad") eines mächtigen indianischen Caziken von Pedro de Alvarado im Jahre 1523 vernommen—".

1529.

1529—Ribero Map (Kretschmer ed.)—Berlin. (Lib. of Cong.)

"Karte des Diego Ribero vom Jahre 1529." This map is on plate 15 of *Atlas: Die Entdeckung Amerika's in ihrer Bedeutung für die Geschichte des Weltbildes.* By Konrad Kretschmer. Berlin, 1892.

See the notes upon the Kohl edition of Ribero, 1529. The maps vary slightly, due to additions of later geographers, presumably. For instance, the Kohl edition gives Lake Nicaragua, which is called "mar dulce," and this is entirely lacking in the Kretschmer edition of Ribero, 1529.

1544.

1544—Cabot (Kretschmer ed.)—Berlin. (Lib. of Cong.)

"Karte des Sebastian Cabot vom Jahre 1544." This map is on plate 16 of *Atlas: Die Entdeckung Amerika's in ihrer Bedeutung fur die Geschichte des Weltbildes.* By Konrad Kretschmer. Berlin, 1892.

> CABOT, Sebastian, son of John Cabot, who was first to discover the North American continent. Besides making one or more voyages to the New World, Sebastian engaged in the making of maps and charts.

The notes upon the maps of 1527 and 1529 edited by Kohl throw light upon the terminology employed upon this map.

1570.

1570—Ortelius Map—Antwerp. (Lib. of Cong.)

Map entitled "Americae sive novi Orbis nova Descriptio." This is on plate 2 in *Theatrum Orbis Terrarum* by Abraham Ortelius. Antwerp, [1570].

> ORTELIUS, Abraham, an eminent geographer and mathematician born in Antwerp. He published in 1570 his *Universal Geography* ("Theatrum Orbis Terrarum") and in 1575 was appointed geographer to Philip II. His *Universal Geography* obtained for him the name of the "Ptolemy of his age" and is still highly valued.—*Lippincott's Pron. Biog. Dic.*

This copy is not very clear, but it is of historical value because the names are applied to political rather than to physical features. Naco, Chetemal, and Trugillo, all of present-day interest, are to be found upon it.

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1580.

1580—Vaz Dourado Map (Kunstmann ed.)—München. (Lib. of Cong.)

"Karte des Osküste von Amerika von Neudraunschweig bis zum Amazonenstrome." By the Portuguese geographer, Vaz Dourado. This map is on plate 10 of *Atlas zur Entdeckungsgeschichte Amerikas.* Aus Handschriften der K. Hof- und Staats-Bibliothek, der K. Universitaet, etc. Herausgegeben von Friedrich Kunstmann, Karl von Springer, George M. Thomas, zu den Monumenta Secularia der K. B. Akademie der Wissenschaften 28 Maerz 1859. München.

The names upon the coast are very similar to those appearing upon the maps edited by Kohl. But the map is of interest and importance in that the name "Figeras" (Higueras or Honduras) is printed in such a manner as to include virtually the whole of the ancient captaincy-general of Guatemala.[1]

1597.

1597—Wytfliet Map—Louvain. (Lib. of Cong.)

Map entitled "Iucatana Regio et Fondura." Found between pages 154 and 155 of *Descriptionis Ptolemaical Augmentum*, etc. By Cornely (Corneille) Wytfliet. Lovanii, 1597.

> WYTFLIET published a large number of maps in one form or another. His *Descriptionis Ptolemaical Augmentum*, etc., 1597, is the earliest distinctively American atlas, and is as important in the history of the early cartography of the New World at Ptolemy's maps are in the study of the Old.—Phillips, *List of Geographical Atlases*, I, 566.

This map gives to Honduras (Fondura) all of the territory to the east of the Rio Grande, which is represented as flowing from a large body of water, apparently the Gulf of Dulce.

Late sixteenth or early seventeenth century.

Late sixteenth or early seventeenth century—Portuguese Atlas Map (Kretschmer ed.)—Berlin. (Lib. of Cong.)

Map "aus einem Portugieschen Atlas der Biblioteca Riccardiana zu Florenz." This map is on plate 35 of *Atlas: Die Entdeckung Amerika's in ihrer Bedeutung für die Geschichte des Weltbildes.* By Konrad Kretschmer. Berlin, 1892.

But little appears to be known about the origin of this map. It is, however, reasonably accurate, in view of the time, and is an advance

[1] "Carta dirijida al Rey de España," por el Licenciado Dr. Don Diego Garcia De Palacio, Oydor de la Real Audiencia de Guatemala; Año 1576. Published in the original with translations, etc. By E. G. Squier, in *Collection of Rare and original Documents and relations, etc.* New York, 1860. (Lib. of Cong.)

Page 87: "In the portion of this province which lies in the direction of Gracias á Dios in Honduras, are the Chontal Indians."

Page 91: "Near here, on the road to the city of San Pedro, in the first town within the province of Honduras, called Copan, are certain ruins and vestiges of a great population • • •"

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upon earlier maps in various regards. It is the first of the series here considered to name the Gulf of Dulce (the Dulce in the region disputed between Honduras and Guatemala); and upon it Lake Nicaragua and the River San Juan have a very prominent place. This map appears to apply the name "las higueras" to the indentation called in later maps Pyrats Lagoon.

1601.

1601—Herrera Map, No. 1—Madrid. (N. Y. Pub. Lib.)

Map entitled "Descripcion de las Yndias Ocidentales." This is map No. 1, found between pages 2 and 3 of the *Descripcion de las Indias Ocidentales*, by Antonio de Herrera, "Coronista Mayor de su Magd. de las Indias y su Coronista de Castilla," which was published in Madrid in 1601, as an introduction to and bound in with Decadas 1 and 2 of the larger treatise by Herrera, entitled *Historia General de los Hechos Castellanos en las Islas i Tierra Firme del Mar Oceano*, Madrid, 1601.

> HERRERA, y TORDESILLAS, Antonio (1548–1625), eminent Spanish historian. Made chief historiographer of the Indies by Philip II. Honored also with the title of historiographer of Castile and Leon. He wrote much history, but though all of his works were highly prized for their erudition, none attained the celebrity of his *History of the Indies*. Even today he may be called chief among historians of Spanish-American affairs. His position as State historiographer gave him access to everything, and he made use of his opportunity to an extent then exceptional. His work on the Indies is not without errors; nevertheless, it is not only one of the most complete but also one of the most reliable of the New World chronicles.—Bancroft, *Central America*, I, 316–317.

This map is of interest because the only name appearing upon the territory represented by the present Central America is "Honduras," which seems to include the whole Central American region. The map is too small, however, to be of much direct value as evidence with reference to the boundary question; but it should be examined in connection with the important notes from Herrera's text.

1601.

1601—Herrera Map, No. 6—Madrid. (N. Y. Pub. Lib.)

Map entitled "Descripcion del Audiencia de Guatemala." This map is No. 6, found between pages 32 and 33 of the *Descripcion de las Indias Ocidentales*, by Antonio de Herrera, "Coronista Mayor de su Magd. de las Indias y su Coronista de Castilla," which was published in 1601, as an introduction to and bound in with Decadas 1 and 2 of the larger treatise by Herrera, entitled *Historia General de los Hechos Castellanos en las Islas i Tierra Firme del Mar Oceano*, Madrid, 1601.

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This map gives no artificial boundary lines, but the position of the word "Honduras" indicates that the territory at least as far west as the peninsula of Yucatan was looked upon as belonging to the province of Honduras. This view is borne out by the quotations from the text of Herrera's work which follow.

Herrera, *Descripcion de las Indias Ocidentales*, ch. 12, pp. 24–25. The chapter is headed: "Del Distrito de la Audiencia de Santiago de Guatemala."

La Provincia, i Governacion de Guatemala, sobre la Costa de la Mar del Sur, al largo de ella, sera como 70 leguas, i de ancho, Norte Sur, 30: es Tierra de buen temple * * *.

Page 25:

Within the same chapter, beneath the heading, "Puertos de esta Governacion," appears the following:

Los Puertos de esta Governacion, en la Mar del Sur, demas de los referidos, son la Bala de Fonseca, junto a San Miguel, en 12 grados i medio de altura; diola el nombre Gil Gonçalez Davila, año de 1522 * * * por las parte del Norte, no alacança esta Provincia Costa Ninguina, porque no allegro á la Mar, con 40 Leguas, hasta vn debarcadero, que llaman el Puerto de Golfo Dulce, desde donde se meten las Mercaderias que van de Castilla, por el Golfo de Honduras * * *.

Page 26:

Under the subheading "Vera-Paz" appears the following:

La provincia de la Verapaz, * * * tambien es mediterranea entre los terminos de Soconusco, Chiapa, Yucatan, Honduras, y Guatemala de treynta leguas de travesia * * *.

No hay en esta provincia Gobernador, sino un Alcalde mayor, provido por el Audiencia. Divide esta Provincia de la Guatemala, el rio de Zacatula, desde el qual se estiende hasta golfo Dulce, adonde van desaguar todos los rios della * * *.

Herrera, *Descripcion de las Indias Ocidentales*, ch. 13.

Page 26:

The chapter is headed "De Honduras, Nicaragua, i Costarica."

La Provincia, i Governacion de Honduras, tentrá la largo, Leste Oeste, por la Costa de la Mar del Norte, más de 150 Leguas, i de ancho, desde la Mar, hasta los Terminos de Costarica i Guatemala, por parte 80: tiene muchas Sierras * * *.

Pages 26–27:

In the above-mentioned chapter the following are named as cities or other political entities of Honduras province: Valladolid (or Comayágua), Gracias á Dios, S. Pedro, San Juan, Truxillo, S. Jorge de Olancho, Valle de Olancho.

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Page 27:

In the same chapter under the subheading "Puntas, i Puertos desta Governacio," is the following:

La Costa de está Provincia est toda en la Mar del Norte, en el Golfo que llaman de Honduras, que es toda la Marina: entre esta Provincia, i Iucatan, hasta donde se junta con ella por la Vera Paz, adonde se llamó, el Golfo de Guanajos: la primera Punt es la de Hibueras, * * * junto á Golfo Dulce, Puerto para Guatemala, adonde fue poblado S. Gil de Buenavista, junto al Cabo de tres Puntas, al Oriente, de Golfo Dulce * * *.

Cf. map and notes from the 1730 edition of Herrera.

1625.

1625—Laet Map—Leyden. (Lib. of Cong.)

Map entitled "Nova Hispania, Nova Galicia, Guatimala." Found between pages 140 and 141 of *Nieuve Wereldt ofte Beschijvinghe van West Indien*, etc. Door Joannes de Laet. Tot Leyden, anno 1625. Met Priviligie der Ho. Mo. Herren Staten General, voor 12 Laren.

LAET, Jan van, a Flemish geographer. Was well versed in languages and history. "His *Description of the West Indies* (1640) is highly commended."—*Lippincott's Pron. Biog. Dic.*

"'This invaluable work has been much improved in subsequent editions and translations. Asher's comment on the first edition. Cf Essay No. 1."

"'It would have been difficult to produce anything better at the time when he wrote; and we must accept this book as the standard work on New Netherland of the 17th century.' * * * Cf. Winsor, Narrative and Critical History, v. 4, p. 417."—Phillips, *List of Geographical Atlases*, I, 571.

This map is unusually clear, and, particularly in view of its authorship, is valuable as evidence. It supports Honduras' claim to the territory west of the Gulf of Dulce. This support is given by the position of the word "Honduras," the "H" of which is placed very near the Gulf of Dulce, as marked on the map, and between the Gulf and a river west of Cape Three Points. This river is not named but is quite obviously the Motagua. Gracias a Dios and San Pedro are well within Honduras' borders. The map should be studied in relation to the geographic description from the French edition of De Laet of 1640, which follows:

L'Histoire du Nouveau Monde ou Description des Indes.—Par le Sieur Jean Laet, d'Anuers. A Leyde. Chez Bonaventure & Abraham Elseuieurs. Imprimeurs ordinares de l'Université. 1640. (Lib. of Cong.)

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Page 246:

Chap. VII.

Vera Paz.

Description de la Prouince de Verapaz & des places qui sont auiourdi'hui habitees en icelle.

La Prouince a laquelle est demeure le nom de Verapaz, c'est a dire, de la vraye paix, etc. * * * elle est bornee du coste de l'ouest de la Prouince de Chiapa, vers le Sud de Socunusco, au Nord de Yucatan, & vers l'Est des Honduras & Guatimala proprement dire; * * * Elle est separee de Guatimala par la riuiere Zicalpa, des Honduras par les Riuieres, marais, & golfe, que est vulgairement appelle Golfo Dolce, & est tenu pour un port de cette Prouince.

Page 255:

Les Ports du Gouuernment de Guatimala, sont outre quelques-uns dont nous aurons fait mention ci-denant; premierement la Baye de Fonseca, proche de la bourgade de S. Miguel * * *

Page 256:

Ce Gouuernement n'a nul port sur la mer du Nord, pource que les denieres limites d'icelui n'en approchent pas plus pres que quaranta lieues: toutefois les marchandises de l'Europe se transportent par le Golf Dolce * * *

Page 260:

Chap. XVIII.

Coste marine, Ports & Isles du Gouuernement de Hondure.

Toute-la coste de ce Gouuernement est le long de le mer du Nord & du golfe ou baye de Hondure: qui est comme enferme entre le Peninsule Yucatan & le Cap de Hondure; or au fond d'icelle ille est appelle golfe Guanayos, ou les costes s'approchans l'un de l'autre & se ivigrans comme en un angle, entre au dedans de la Province de Verapaz. Cette coste en outre prend son commencement vers l'Ouest de l'emboucheure du Golf Dolce, & du Cap qui est vulgairement appele Punta de Hibueras, sur la hauteur de seize degres ou Nord de la Ligne, ou comme les chartes marines le mettent commencement seize degres & trente scruples.

1656.

1656—Sanson D'Abbeville Map—Paris. (Lib. of Cong.)

Map entitled "Mexique ou Nouvelle Espagne, etc." Par M. Sanson d'Abbeville Geographe ordre. du Roi. Paris, 1656. This map is on plate No. 25 in *Cartes Generales de la Geographie ancienne et nouvelle*, etc. Par les Srs. Sanson Geographes ordinaires de sa Majeste. Paris, 1675.

This map has very definite dotted boundaries, outlined in the original of the photographic copy in pink. The boundary of Honduras starts at the east bank of the mouth of the Rio Dulce and follows the river for a short distance, then swerves more to the east

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and passes on to the main mountain axis, which it then follows to the southeast. Naco, Gracias á Dios, and San Pedro are placed in Honduras.[1]

1664–1665.

1664–65—Blaeu Map—Amsterdam. (Lib. of Cong.)

Map entitled " Yucatan Conventue Iuridici Hispaniae Novae Pars Occidentalis, et Guatimala Conventue Iuridicus." This map is to be found between pages 12b and 12c, pt. 3, vol. 8, of the *Grooten Atlas, oft werelt beschryving, in welket 't aerdryck, de zee, en hemel, wort vertoont en beschreven.* 9 vols. Amsterdam, J. Blaeu, 1664–1665.

> BLAEU ou BLAEUW (Guillaume), savant imprimeur geographe. Il a publie un grand atlas * * * qui ont rendu de grands services a la science.—Son fils JEAN * * * l'aida dans ses travaux, et en publia lui-meme de remarquables.—*Nouveaux Larousse Illustré.*

No boundary line appears on this map, but the word " Honduras " is printed boldly to the south of " Golfo de Honduras " in such a manner as to convey the impression that the whole territory to the east of the Gulf of Dulce belonged to Honduras. This impression is justified by the boundary given in the following quotation from the text:

Blaeu, *Grooten Atlas*, VIII, pt. 3, bet. pp. 112d and 112e:

Vera-paz.

Dese Provintie, * * * grenst ten westen aen de Provintie van Chiapa * * * het wort van Guatimala door de rivere Xicalapa gescheyden; en van de Honduras door rivieren, moerassen, en de golf of baey, diese in 't gemeen Golfo Dolce noemen, welke voor een haven van dit gewest wort gehouden.

Blaeu, VIII, pt. 3, bet. pp. 112e and 112f:

Honduras.

De Provintie en Gouvernement van Hondura, gelijck die in 't gemeen van de Spanjaerden wort geheeten, grenst ten costen aen de Provintie Taguzcalpa, * * * ten westen aen Vera-Paz en Golfo Dolce; en ten noorden aen de Noordzee.

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[1] *America: or an exact Description of the West Indies.* Faithfully represented by N. N. Gent. London, 1655. (Lib. of Cong.)

[Book dedicated to Mr. John Robinson, of London, Merchant. Dedication refers to author's failure to give his name " being only unhappy that he can not " (for some necessary reasons that hinder him) " Immortalize his own name as he hopeth to doe this book * * *."]

Page 366: " Honduras hath on the South Guatimala abovesaid, on the West a certain Bay or Arme of the Sea, which they call Goulfo dulce from the abundance of sweet waters that run into it from all parts; on the North and Northeast the Atlantick Ocean; and somewhat to the Southeast Nicaragua."

Pages 367–369: Towns listed as belonging to Honduras are New Valladolidt, Gracias a Dios, San Pedro, Puerto de Cavallos, St. Thomas de Castile, Truxillo, St. George de Olancho.

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1666.

1666—Goos Map—Amsterdam. (Lib. of Cong.)

Chart entitled "Pascaerte van West Indien de Vaste Kusten en de Eylanden." This is on plate No. 35 in *De Zee-Atlas ofte water-weereld*, etc. By Pieter Goos. Amsterdam, 1666.

There is much significance in the coloring which appears in the original of the photograph. Yucatan is colored red; Honduras, yellowish brown; Nicaragua, green; Costa Rica, red, etc. The Honduras color extends as far west as the break in the coast line west of the name "Golfo de Guanajos," or to where the peninsula of Yucatan begins. The yellowish brown color is put on in a wider stripe than the red of Yucatan or the green of Nicaragua. And this greater width is shown in the photograph. Furthermore, the name "Honduras" is printed in such a manner as to indicate that Honduras owned the whole coast of Yucatan.[1]

Seventeenth century.

Seventeenth Century—Jansomini Map—Amsterdam. (Madrid Archives.)

Map entitled "Insulae Americanae in Oceano Septentrionali ac Regiones Adiacentes." In vol. 2 of the *New Atlas or Teatro of the Whole World.* By Laureano Jansomini. Amsterdam, seventeenth century.

This map gives to Honduras all of the coast to the east of the River Dulce, and most of the interior to the south and east of that river, and of the Gulf of Dulce, or Lake Izabel. The boundary is marked by a broad, distinct line which encloses the whole of the Motagua River system, Gracias á Dios and San Pedro.

1688.

1688—Oexemelin Map—Paris. (Lib. of Cong.)

Map entitled "Carte du Continent de l'Amerique et de Isles principales," etc. Date on map, 1688. Facing page 1, vol. 1, of *Histoire des Avanturiers des Boucaniers et de Chambre des Comptes etablie dans les Indes.* Par Alexandre Olivier Oexemelin. Paris, 1688.

OEXEMELIN, Esquimeling, or Exquimelin, was a very famous buccaneer, well known in the annals of piracy in the western world.

This map indicates by position of the word "Honduras" that the Province of Honduras owned the whole coast as far as Yucatan. The

[1] Gardyner, George. *A Description of the New World.* By George Gardyner of Peckham in the County of Surrey, Esq., London, 1651. (Lib. of Cong.)

Page 116, ch. 38: Youcatan Province. (Here follows a description of the Province.)

Page 118, ch. 39: The Province of Honduras. This Province of the Honduras adjoyneth onto the South part of Yucatan, his coast stretcheth along the north Sea as far as Nicurayua which is neer 150 leagues.

Pages 118–119: Valiodalid, the City of Adios, Saint Petro, the Port of Cavalos, Truxcillio, and the village of St. George are named as belonging to the Province of Honduras.

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map is noteworthy because of the large number of names given of places along the coast. Obviously, the pirates were exceedingly familiar with the whole coast of Central America. Supports extreme claims of Honduras.

This map was used in the settlement of the Colombian-Costa Rica boundary dispute.[1]

1696.

1696—Coronelli Map—Venice. (Lib. of Cong.)

Map on page 156 of pt. 2, vol. 2, of *Atlante Veneto, nel quale si contiene la descrittone geografica, storica, sacra, profana, e politica,* etc. Del P. Maestro Vincenzo Coronelli, Min. Conv: Cosmografo della Sereinissima Republica de Venetia, e Professor di Geografia. 1696.

The western boundary line of "Tierra de Hebueras ó Honduras" begins on the east bank of the mouth of the River Dulce and runs to the southwest, giving the whole coast to the east of the river to Honduras and placing the Motagua River, Naco, Gracias á Dios, and San Pedro far within the boundary line on the Honduras side.

About 1698.

About 1698—Vooght Map—Amsterdam. (Lib. of Cong.)

Marine chart entitled "Pas-Kaart van de Golff de Guanaios," etc. T. Amsterdam by Johannes van Keosen, Boek en Zee Kaart verkoper aande Niewe brug Inde Gekroonde Lootsman. Found between pages 32 and 33 of pt. 2 of *La Nueva, y Grande Relumbrante Antorcha de la Mar,* etc. Por Nicolas Jansz Vooght, Geometra, y Maestro de Matematica. The title page for the part of the atlas containing the map is dated 1698.

The word "Honduras" is printed across the entire coast in such a manner as to include within the Province of Honduras all of the territory to the south of the Gulf of Honduras and to the east of Yucatan. Supports extreme claim of Honduras.

1699.

1699—Gage Map—London. (Lib. of Cong.)

"A New Mapp of the Empire of Mexico Describing the Continent to the Isthmus of Panama," etc. In front of *A New Survey of the West Indies.* By Tho. Gage. London, 1699.

GAGE was a member of the Dominican order who spent considerable time in Central America in religious work and in traveling.—*Dic. Nat. Biog.*

[1] *A Geographical Dictionary.* Edmund Bohun. London, 1688. (Lib. of Cong.)
"AMATIQUE, or St. Thomas, a town of North America in New Spain, in the Province de Honduras, eighteen leagues distant from the North Sea, which was built anno 1597. There is a river in the same province, called Amatituo."

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This map gives no boundary lines, but the position of the word "Honduras" makes it clear that at least all territory as far as Yucatan was regarded as belonging to Honduras. The Cape of Three Points, Naco, Gracias á Dios, and San Pedro are well within the outer limits of the Province of Honduras.

About 1700.

About 1700—Visscher Map—Holland. (N. Y. Pub. Lib.)

Map entitled "Insulae Americanae in Oceano Septentrionali ac Regiones Adiacentes." Per Nicolaum Visscher, cum privilegio Ordinum Hollandiae et Westfrisie. About 1700.

This map gives to Honduras all of the coast to the east of the River Dulce, and most of the interior to the south and east of that river, and of the Gulf of Dulce, of Lake Izabel, including Naco, Gracias, and San Pedro. The boundary is indicated by a broad ribbon of color over a dotted line.[1]

About 1700.

About 1700—Morden Map—London. (N. Y. Pub. Lib.)

"A New Map of the English Plantations in America," etc. By Robert Morden. London, about 1700.

This map gives to Honduras all of the coast to the east of the mouth of the River Dulce, and most of the interior to the south and east of that river and of the Gulf of Dulce, or Lake Izabel, including Naco, Gracias, and San Pedro. The boundary is indicated by a red line and a dotted line. The latter, only, appears in the photostat copy of the map, but it is perfectly distinct.

1720.

1720—Delisle Map—Paris. (Madrid Archives.)

Map of Mexico and Central America. In the *Atlas Universal*, by Guillermo Delisle. Paris, 1720.

> DELISLE, Guillaume, a French geographer of great celebrity. Published many maps and globes. Reformed the system of geography, and regarded by some as the principal author of the modern system. Member of the French Academy of Sciences. Louis XV received lessons from Delisle and rewarded his teacher with the title of first geographer to the king.—*Lippincott's Pron. Biog. Dic.*

This map gives to Honduras the whole territory to the south and east of the Dulce drainage system, interior as well as coast. Dotted lines are employed to mark boundaries between the different admin-

[1] *Dictionarium Geographicum ofte Woorden—Dock des Ganschen Aard—Ryks,* etc. Door Johannes de Rali de Jouge. Amsterdam, 1700. (Lib. of Cong.)

"AMATIQUE, of S. Thomas de Castilla, een Klein stedeken, * * * in Noordt-America, in 't westerdeel des landts. Honduras, omtrent 18. leg. van de noordtzee."

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istrative units represented upon the map. No such line appears between the words "Vera paz" and "Comayagua"; hence, the Dulce waterway must have been regarded as the line of demarcation.[1]

1730.

1730—Herrera Map—Madrid. (Lib. of Cong.)

Map entitled "Descripcion del Audiencia de Guatemala." This is map No. 6, found between pages 24 and 25 of *Descripcion de las Indias Occidentales*, by Antonio de Herrera y Tordesillas, "Cronista Mayor de su Magd. de las Indias, y su Cronista de Castilla." Madrid, 1730.

This map gives no artificial boundary lines, but the position of the word "Honduras" indicates that the territory as far west as the Peninsula of Yucatan was looked upon as belonging to the Province of Honduras. This view is borne out by the quotations from the text of Herrera's work, which follow:

Herrera, *Descripcion de las Indias Ocidentales*, ch. 12, p. 32. The chapter is headed "Del distrito del Audiencia de Santiago de Guatemala."

La prouincia, y gouernacion de Guatemala sobre la costa de la mar del Sur, al largo della sera como setenta leguas, y de ancho Norte Sur treynta: es tierra de buen temple * * *.

Page 33:

Within the same chapter, beneath the heading "Puertos de esta gouernacion," appears the following:

Los puertos de esta gouernacion, en la mar del Sur demas a los referidos, son la bahia de Fonseca junto a S. Miguel en 12 grados y medio de altura, diola el nombre Gil Gonçalez Daulla, año de 1522 * * * por la parte del Norte, no alcança esta prouincia costa ninguna; porque no allega a la mar, con 40 leguas, hasta un desembarcadero que llaman el puerto de Golfo Dulce, desde donde se meten las mercaderias que van de Castilla, por el golfo de Honduras, la tierra dentro con recuas, hasta Guatemala, San Salvador, y la Trinidad, y doze leguas antes de Guatemala, en el camina Real de Mexico está la gran laguna de Atitlan, de diez leguas de boxo, y quarto de ancho sin fondo.

Page 34:

Under the subheading "Verapaz" appears the following:

La prouincia de la Verapaz * * * tambien es mediterranea entre los terminos de Soconusco, Chiapa, Yucatán, Honduras, y Guatemala, de treynta leguas de trauesia * * *

[1] *Le Grand Dictiónaire Geographique et Critique.* Par. M. Bruzen la Martiniere, Geographe de sa Majeste Catholique Philippe V, Roi des Espagnes et des Indes. La Haye, 1726. (Lib. of Cong.)

"AMATIQUE, petite ville de la nouvelle Espagne dans la Province de Honduras; on l'appelle autrement St. Thomas."

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No hay en esta prouincia Gouernador, sino vn Alcalde mayor, proueido por el Audiencia. Divide esta prouincia de la Guatemala, el rio de Zacatula, desde el qual se estiende hasta Golfo Dulce, adonde van a desaguar todos los rios della. * * *

Page 35, ch. 13:

The chapter is headed "De Honduras, Nicaragua, y Costarica."

La prouincia y gouernacion de Honduras, tendra de largo Leste Oeste, por la costa de la mar del Norte, mas de ciento y cinquenta leguas, y de ancho desde la mar, hasta los terminos de Costarica, y Guatemala, por parte ochenta, tiene muchas sierras * * *

Pages 35–36:

In the above-mentioned chapter the following are named as cities or other political entities of Honduras province: Valladolid (or Comayagua), Gracias á Dios, San Pedro, San Juan, Truxillo, San Jorge de Olancho, Valle de Olancho.

Page 36:

In the same chapter, under the subheading "Puntas, y puertes de esta gouernacion," is the following:

La costa desta prouincia esta toda en la mar del Norte, en el golfo que llaman de Honduras, que es toda la marine, entre esta prouincia, y Yucatan, hasta donde se junta con ella por la Verapaz, adonde se llamó el golfo de Guanajos, la primera punta es la de Ybueras * * * junto a Golfo Dulce, puerto para Guatemala, adonde fue poblado san Gil de Buenauista, junto al Cabo de tres Puntas, al Oriente, de golfo Dulce.

See map and quotations from the 1601 edition of Herrera's work. A comparison of the maps No. 6 from the Herrera texts of 1601 and 1730 and the quotations from the same editions will disclose the fact that as regards information given with reference to the territorial extent of Honduras and Guatemala, the two editions are identical. This identity is significant, for it shows that in Spain the statement made in 1601 by the great Spanish historian was in 1730 still regarded as valid—that the territory held by Honduras in 1601 was still looked upon as hers 129 years later.

1731.

1731—D'Anville Map—Paris. (N. Y. Pub. Lib.)

"Carte des Isles de l'Amerique et de plusieurs pays de terre ferme," etc. Dresse par le Sr. D'Anville, Geographe Ordre du Roi. Mars 5, 1731. The map is one of several upon a large plate called *Indiae Occidentalis.*

This map gives to Honduras all of the territory to the south and east of the River Dulce, and all on the *east* shore of the Gulf of Dulce. The boundary is indicated by a dotted line which starts at

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the southeast corner of the Gulf of Dulce, and at first curves to the southeast, and then decidedly to the southwest, following a chain of mountains. The whole of the Motagua River and its valley are included within the territory of Honduras.

About 1754.

About 1754—Bellin Map—Paris. (Lib. of Cong.)

Map entitled "Carte des Provinces de Tabasco, Chiapa, Verapaz, Guatimala, Honduras et Yucatan," etc. By M. B., Ingr. de la Marine. Reduced from a map in Prevost's Voyages (Paris, 1754), vol. XII. This copy is from a reproduction in Winsor, *Narrative and Critical History of America*, VIII, 262. Boston, c. [1889]

This map indicates Honduras' western boundary by means of a dotted line beginning at Bodegas on Pyrats Lagoon and running to the southwest, giving Cape Three Points, Gracias á Dios, and the whole of the Guanacos River Valley, in which are Tencoa and Chiquimula, to Honduras.

1755.

1755—Hinton Map—London. (N. Y. Pub. Lib.)

"A New & Accurate Map of the West Indies and the Adjacent Parts of North & South America." *Univ. Mag.* J. Hinton, Newgate St. 1755. London.

This map shows a boundary which gives to Honduras the whole of the Motagua River Valley, in which is Tencoa. Naco and Gracias á Dios are also in Honduras. The boundary is indicated by a dotted line which starts near Bodegas, west of Cape Three Points, and runs southwest, following a range of mountains part of the way.

About 1756.

About 1756—Ottens Map—Amsterdam. (Lib. of Cong.)

Map entitled "Insulae Americanae," etc. About 1756. This map is No. 203 in *Atlas Minor sive Geographia compendiosa in qua Orbis Terrarum*, etc. Amsterdam. Chez Regner & Josue Ottens. 1695–1756?

This map shows the boundary line as starting on the left bank of the Rio Dulce and giving to Honduras Cape Three Points the whole of the Motagua River system, Naco, Gracias á Dios, and San Pedro.

1757.

1757—Dies Map—Madrid. (Madrid Archives.)

Map entitled "Plan of the coast of Honduras from the Cape of Gracias á Dios to that of Catoche corrected by different Pilots Year 1756. Copy by Don Miguel Gracia Dies, pilot of the vessel of the Royal Armada, under the correction of Don Pedro R. Note: that it has been compared and corrected the bajo de Salmedina and some

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depth added by the pilots of San Rosendo pilots of the navigation year 1757."

This map does not bear either the names "Honduras" or "Guatemala," as applied to administrative units; but it is of some significance in that it is called a plan of the "coast of Honduras"; also in that what is now called the Gulf of Dulce is called "Golfo de Honda," and that the present River Rulce is called "Ro. Dulse de Honduras".[1]

1762.

1762—Kitchin Map—London. (N. Y. Pub. Lib.)

"A New and Correct Map of the American Islands now called the West Indies, with the Whole Coast of the Neighboring Continent." By Thos. Kitchin, Geogr. 1762.

This map gives to Honduras the whole of the coast to the east of the mouth of the River Dulce, including Cape Three Points. The boundary is marked by a dotted line which starts slightly to the east of St. Tomas del Castille, and runs in a southwestern direction, following a chain of mountains to what is now the frontier of Salvador. The Motagua River and its valley, in which are Tencoa and Chiquimula, are included in Honduran territory; also Naco and Gracias á Dios.

1764.

1764—Bellin Map—Paris. (Lib. of Cong.)

Map entitled "Carte des Provinces de Tabasco, Chiapa, Verapaz, Guatimala, Honduras et Yucatan." This is map No. 8, in vol. 2 of *Le Petit Atlas Maritime*, etc. Par J. N. Bellin. Paris, 1764.

The boundary is indicated by means of a dotted line which begins in the western part of the Gulf of St. Thomas de Castilla near Bodegas and runs to the southwest, including within Honduras the whole of the Motagua River Valley, in which are Tencoa and Chiquimula; also Cape Three Points, Naco, and Gracias á Dios.

1767.

1767—Alzate—Mexico or Madrid. (Madrid Archives.)

"New Geographical Map the most complete and accurate of those which have been published of Septentrional Spanish America," etc. By Br. Fph. Antonio de Alzate y Ramirez, Domiciliary Presbyter of the Archbishopric of Mexico. 1767.

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[1] *Geographic Historique, Ecclesiastique et Civile, etc.* Par Dom Joseph Vaissete, Religieux Benedictin de la Congregation de S. Maur. Paris, 1755. (Lib. of Cong.) Vol. 4, pp. 200–201.

Honduras.

* * * * * * *

"Les autres lieux plus rémarquables de la partie occidemtale de la province ou de pays de Comayagua, sont le Golfo Dolce sur la côte, ou il y a un petit port; Puerto de Cavallos, autre port sur la même côte; Gracias á Dios: san Pedro, san Thomas, &c."

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This map gives to Honduras the whole of the coast of the Gulf of Honduras to the east of the mouth of the River Dulce, and the whole of the interior to the east of the River and Gulf of Dulce as far south as the point on the shore of the Gulf of Dulce where the shore line assumes a course nearly west by southwest. Here the artificial boundary line starts and runs towards the southeast, including in Honduras practically the whole area drained by the Motagua River and its tributaries. Gracias and San Pedro are in Honduras.

In the foreword to this map the author, Alzate, Domiciliary Presbyter of the Archbishopric of Mexico, states that the map is "divided into bishoprics and provinces." The map is dedicated to the Archbishop of Mexico. Because of its authorship, dedication, and character, it would seem valuable to the investigation of the ecclesiastical territorial divisions of Guatemala and Honduras.

1771.

1771—Speer Map—London. (Lib. of Cong.)

"A Chart of the Bay of Honduras." Published Oct., 1771, by Capt. Jos. Smith Speer. Bayly, sculp. This is chart No. 8 in *The West India Pilot*, etc. By Captain Joseph Smith Speer, who served upwards of twenty years in the West Indies. London, 1771.

This map represents the boundary by a dot-and-dash line running from the western coast of the Bayo St. Thomas de Castillo near Bodegas towards the southwest. The line almost grazes the Gulf of Dulce and includes within Honduras Cape Three Points, the whole of the Motagua River system, and the cities of Chiquimula and San Pedro.

1775.

1775—Jefferys Map—London. (Geog. Soc. of N. Y.)

Map entitled "The Bay of Honduras," by Thomas Jefferys, Geographer to the King. London, 1775. In *The West Indian Atlas or a General Description of the West Indies.* By Thomas Jefferys. London, Feb., 1775.

This map gives to Honduras the whole territory drained by the Motagua River system. Also the towns of Tencoa, Gracias á Dios and Chiquimula. The boundary is indicated by a broken line which starts slightly to the east of Amatique and follows the watershed between the Dulce and the Motagua River systems, running quite sharply to the southwest.[1]

1779.

1779—Kitchin Map—London. (Lib. of Cong.)

"Map of the Bay of Honduras, showing the situation of the Spanish Town and Fort of St. Fernando de Omoa, taken by the

[1] *The North-American and the West Indian Gazetteer*, etc. London. Printed for G. Robinson. 1776. (Lib. of Cong.)

"*Gracias á Dios*, a town belonging to the province of Honduras, or Comalagua, and audience of Guatimala."

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Honble. John Luttrell & Wm. Dalrymple, Esq., Oct. 20th, 1779." T. Kitchin Senr. Sculpt. This map is found between pages 568 and 569 of *The London Magazine*, vol. 48, for the year 1779.

The boundary is clearly indicated by a dotted line which starts at Bodegas, to the west of Cape Three Points. This line gives to Honduras the whole of the Motagua River system, Three Points, the towns of Tencoa and Gracias á Dios, and the Villa of Naco.

1781.

1781—Bonne Map—Paris. (Lib. of Cong.)

Map entitled "Carte generale de l'Amerique Septentrionale." Par M. Bonne, Ingenr. Hydrographe de la Marine. Fever. 1781. This map is No. 39 in *Atlas Portatif a l' usage des Colleges.* Par M. L'Abbe Grenet Professeur au College de Lisieuz. Paris, 1779–1782?

The position of the name "Honduras" upon this map indicates that all territory to the east of the Gulf of Dulce and the River Dulce was regarded as part of the Province of Honduras.

About 1782.

About 1782—Bonne Map—Paris. (N. Y. Pub. Lib.)

Map entitled "Les Isles Antilles, et le Golfe du Mexique." Par Mr. Bonne Ingr. Hydrographe de la Marine. 1782?

This map gives to Honduras the whole coast to the east of the mouth of the River Dulce, including Cape Three Points; also the whole of the territory drained by the Motagua River system, with the exception of the headwaters of one of its branches. The boundary line between Honduras and Guatemala is indicated upon the original of this photostat copy by a blending of two colors. Eastern Mexico and western Central America, including Guatemala and Vera Pas, are colored red; eastern Central America, including Honduras, is colored brownish yellow. St. Thomas del Castille, Gracias á Dios, Cape Three Points, and most of the Motagua are within the Brownish yellow area.[1]

[1] *Geographie de Büsching,* Par Mr. Berenger, a Lausanne, 1776–1782. 12 vols. (Lib. of Cong.)

Büsching, Anton Friedrich, an eminent German geographer and theologian. Professor of philosophy at Göttingen. "His '*Description of the Earth*' (1754) was esteemed the most complete work of the kind that had then appeared, and was translated into the principal languages of Europe." He also published a "Magazine of History and Geography."—*Lippincott's Pron. Biog. Dic.*

Vol. XI (dated 1782), p. 269:

"*Honduraz ou le Hibueraz.*

"* * * *Naco ou Puerto de Carallos* est batie sur les bords de la riviere de Sol, c'est un petite ville. *Tencoa* est un bourg dans une plaine. *Gracias a Dios,* ville sur une riviere qui se jette dans le Guanacos * * *"

Page 270:

"*Amatique* est un village que donne son nom a un golfe."

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1791.

1791—D'Anville Map—London. (Geog. Soc. of N. Y.)

"A Map of North America." Published under the patronage of the Duke of Orleans by D'Anville, Jan. 1, 1791. In *D'Anville's Atlas.* Harrison. London, 1791.

This map gives to Honduras the whole coast to the east of the mouth of the River Dulce. The line, which is very heavy, starts to the west of Three Points and runs southwest, including the whole Motagua River system in Honduras. Also the towns of Tencoa and Gracias á Dios, and the villa of Naco. On the south the boundary line is poor, for it places the Bay of Fonseca in Nicaragua.

1792.

1792—Jefferys Map—London. (Lib. of Cong.)

Map entitled "The Bay of Honduras." By Thos. Jefferys, Geographer to His Majesty. Corrected and Improved in 1792. Published 12th May, 1794, by Laurie & Whittle. London. This is map No. 18 in *A Complete Pilot for the West Indies, etc.* By the Late Thomas Jefferys. New edition. London, 1794–1795.

No boundary line is given, as this is a marine map, but the position of the name "Honduras" indicates that at least the whole of the territory to the east of the Gulf of Dulce was regarded as part of Honduras.

1793.

1793—Elwe Map—Amsterdam. (N. Y. Pub. Lib.)

Map entitled "De Golf van Mexico, de Eilanden en het omleggende Land," etc. By Ian Baret-Elwe. Amsterdam, 1793.

This map gives the whole of the coast to the east of the mouth of the River Dulce to Honduras, and also the whole of the Motagua drainage system. The dotted boundary line starts at the mouth of the River Dulce and follows the south bank of the river for about two-thirds of the length of the stream, when it swerves more to the south, leaving the river. San Pedro and Gracias á Dios are included within Honduran territory.

1793.

1793—Bryan Edwards Map—London. (Lib. of Cong.)

"A New Map of the West Indies, for the History of the British Colonies," by Bryan Edwards, Esq. Published May 28, 1793, by I. Stockdale, Piccadilly. This is a very large folding map in front of Vol. I. of *The History, Civil and Commercial, of the British Colonies in the West Indies.* By Bryan Edwards, Esq., of Jamaica. 2 vols. London, 1793.

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This is primarily a coast map, as far as Central America is concerned, but the boundary is clearly indicated by a dotted line beginning between Amatique and the Rio de Guanacos (Motagua), giving to Honduras that river and Cape Three Points.[1]

1799.

1799—Ruiz Map—Madrid. (Madrid Archives.)

Map entitled "Carta Esferica del Golfo de Mexico y las Islas Adycentes" Trabajado por Antonio Ruiz Colegi. Año de 1799. Copiado por J. Garcia Bellido y J. Melero Moreno, Cartografos de la Direccion de Hidrografia.

This map gives no artificial boundary lines, but the position of the word "Honduras" to the right of the Gulf of Dulce, and of Verapaz to the left, indicates clearly that the Dulce drainage system was looked upon by the Spanish cartographer as the dividing line; that this drainage system formed the western boundary of Honduras.

1800.

1800—Jefferys Map—London. (Hispan. Soc. of Amer.)

Map entitled "The Bay of Honduras." By Thomas Jefferys, Geographer to His Majesty. Corrected and improved in 1800. Published 12th Jany., 1800, by Laurie & Whittle, London. This is map No. 17 in *The West India Atlas; or a Compendious Description of the West Indies*, etc. By the late Thomas Jefferys, Geographer to the King. London, 1799.

No definite boundary line appears upon this map, but the name "Vera Paz" is printed across the part to the west of the River and Gulf of Dulce, and "Honduras" is printed boldly across the region to the east of the river and gulf, leaving the impression that the river and gulf form the boundary line. The descriptive matter in the text of the Jeffery's atlas verifies this impression. On page 10 is the following:

The port of St. Thomas [St. Thomas of Castille, mentioned earlier upon the page], we have just mentioned, is in the large province of Honduras, where begins a new Audience. * * *

The Province of Honduras, the most northern of its [Guatemala's] government, comprehends not only all the south side of the Bay, which has given it its name, but likewise a great part of the coast to the south of Cape Gracias á Dios: this, at least, is the pretension of the Spaniards * * *. [Then follows British claims in the name of the King of the Mosquitos, etc.]

1801.

1801—Araoz Map—Madrid. (Madrid Archives.)

Map entitled "Carta Esferica que Comprehende una Parte de la Costa de Yucatan Mosquitos y Honduras" Construida de orden del

[1] *Dictionaire Geographique*, Par l'Abbe F. X. de Feller, 3d ed., 2 v., Liege, 1794. (Lib. of Cong.)

"AMATIQUE, ville de l'Ameriq. sept. ou Saint-Thomas de Castille, dans la prov. des Hondures, * * *"

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Exmo. Sor. Dn. Juan de Araoz Capitan General de Departamento Honorario y de la Marina del Puerto de la Havana Año de 1801.

This map gives no artificial boundary lines, but the prominent position of the world "Honduras" to the east of the Dulce drainage system forces the conclusion that this waterway was regarded by the cartographer as part of the boundary of the Province of Honduras.

1804.

180½—Govr. Honduras Anguiano Plan. (Madrid Archives.)

Plano que acompaña y se menciona en la "Memoria de la Visíta Gral que el Governador Intendente de Honduras hecha en los 7 partidos de que se compone su Intendencia, dirigida a S. M. por la via reservada de Gracia y Justicia. Contiene (la Memoria) una descripcion geografica fisica y politica, estadistica produciones &c. de cada una de las Provincias. Acompaña a esta Memoria varios documentos entre otros el señalado con el No. 8 que contiene un pequeño Plano y otro con el No. 9 que es un censo de poblacion en 1801." (100–5–11/. A°—Gral de Indias.)

This official map of the Governor of Honduras is of notable importance, especially in the light of the documents accompanying it. The boundary line is very distinct and starts in the northwest at the mouth of the Motagua River. It follows the river till reaching the westernmost tributary, which then becomes the boundary. From the headwaters of the tributary the boundary is artificial and is indicated by a line of dots, somewhat zigzagged, running slightly to the west of south. This line includes the city of Gracias in the territory of Honduras; also Tencoa, which, however, is out of place. The boundary line as indicated upon the map is supported by the statement made in the Governor's report, that the Motagua River formed the boundary line between Honduras and Guatemala.[1]

1809.

1809—Guthrie (Carey, ed.) Map—Philadelphia (Lib. of Cong.)

Map entitled "A Chart of the West Indies, from the latest Marine Journals and Surveys." W. Barker, sculp. Phila. Engraved for Carey's American Edition of *Guthrie's Geography* improved. In *Carey's American Atlas*, by M. Carey, Phila. 1809.

> GUTHRIE, William. Miscellaneous writer of Scotland. "Probably his most noted book was his *Geographical, Historical, and Commercial Grammar* (1770), which reached numerous editions and was translated into French in 1801."—*Dic. Nat. Biog.*

This map shows the boundary line as starting to the west of Cape Three Points and running to the southwest, giving Three Points, the

[1] *The New and Complete American Encyclopedia*, etc. 7 vols. New York, John Low, 1805–1811. (Lib. of Cong.)
"*Gracias a Dios*, a town of Mexico, in the Province of Honduras."

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whole of the Motagua River system, Naco, and Gracias á Dios to Honduras.

1816.

1816—Thompson-Alcedo-Arrowsmith Map—London. (Geog. Soc. of N. Y.)

Map No. XIII in the *Atlas to Thompson's Alcedo, or Dictionary of America and the West Indies*, etc. By A. Arrowsmith, Hydrographer to His Royal Highness the Prince Regent. London, printed by Geo. Smeeton, 1816.

Territorial ownership is shown on this map more clearly by the coloring than by the boundary line, though the latter is discernible. In the map, from which the photostat copy was made, Honduras is colored red; Vera Paz, green, and Guatemala, buff. Cape Three Points has the red Honduran color. The line may be seen on the photostat copy beginning on the south shore of Pyrats Lagoon and running almost due south a little to the west of the mountain range. The validity of the map is, however, somewhat weakened by the fact that the Gulf of Fonseca is placed wholly in Nicaragua, a situation contrary to the political geography of Central America.[1]

1816.

1816—Brué Map—Paris. (Hispan. Soc. of Amer.)

Map No. 30 in *Grand Atlas Universal ou Collection de Cartes Encyprotypes Generales et Detaillees*, etc. Par H. Brué, Ingenieur Geographe de S. A. Royale. Paris, 1816.

This map gives Honduras most of the coast to the east of the mouth of the River Dulce, including Cape Three Points, and practically the whole of the territory drained by the Motagua River system,

[1] Thompson, G. A., *The Geographical and Historical dictionary of America and the West Indies*, containing an entire translation of the Spanish work (date 1786–1789) of Don Antonio de Alcedo, captain of the Royal Spanish Guards and member of the Royal Academy of History, with large additions and compilations. London, 1812. (Lib. of Cong.)

This was the Thompson who made the official visit to Central America in 1829.

ALCEDO, Antonio de, a native of Spanish America, published at Madrid in 1786 a valuable work on the geography of America, *Diccionario geográfico-historico de las Indias Occidentales o America* (5 vols.). Scarcely anything is known of his life.—*Lippincott's Pron. Biog. Dic.*

The following are quotations from Thompson's Alcedo: All are exact translations from the Spanish work of 1786–1789.

"*Bodegas*, another (settlement) of the Province and Government of Honduras, situate on the shore of the Folso Dulce."

"*Dulce*, another (river), in the Province and Government of Honduras, on the side of the entrance of the gulf of this name."

"*Gracias á Dios*, a city of the Province and Government of Honduras in the Kingdom of Guatemala."

"*Thomas, S.*, another (settlement) with the surname of Castilla, in the Province and Government of Honduras and Kingdom of Guatemala. It is * * * established from the convenience of its port, which is very secure and much frequented * * * it has a castle built for its defense, and is 60 leagues from the capital, Guatemala."

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including Tencoa and Chiquimula. Naco and Gracias, which belong farther east, are also included.

The validity of this map is somewhat weakened because the line is erroneous in the south, for Nicaragua has never owned the whole of the Gulf of Fonseca.

1816.

1816—J. Thomson Map—Edinburgh. (Geog. Soc. of N. Y.)

Map entitled "Spanish North America, Southern Part." Drawn and engraved for *Thomson's New General Atlas*, 1816. This map is No. 59 in the *New General Atlas*, Edinburgh, printed by George Ramsay & Co. for John Thomson & Co., Edin., 1817.

In the map from which the photostat copy was made territorial jurisdiction is shown by means of color as well as by the dotted boundary line visible upon the copy. In the original, Honduras is bordered with green; Vera Paz, with blue; Guatemala, with red. Cape Three Points is colored green, the Honduran color. The dotted boundary line starts just to the west of the peninsula terminating in the Cape—on the south shore of Pyrats Lagoon—and runs almost due south, following the mountain range. But the map is weakened as evidence because Nicaragua is made to extend too far west.

1818.

1818—Pinkerton-Herbert Map—Philadelphia. (Lib. of Cong.)

Map entitled "Spanish Dominions in North America. Southern Part." Drawn under the direction of Mr. Pinkerton by L. Hebert. Published by Dobson, Philada. This map is on plate No. 45 of *A Modern Atlas, from the Latest and Best Authorities.* Directed and Superintended by John Pinkerton, author of *Modern Geography*, etc. London, 1815. Philadelphia. Published by Thomas Dobson & Son, 1818.

This is a large colored map with boundaries indicated by means of a fine dotted line. Honduras is colored pink, Vera Paz, yellow. Both by coloring and boundary line Honduras is given the whole of the Guanacos River system, Cape Three Points, and Pyrats Lake (Lagoon). The line begins to the west of St. Thomas del Castille and runs southwest, leaving Tencoa just to the west of the line, in Guatemala, while Gracias á Dios and San Pedro are to the east of the line.

1818.

1818.—Bonnycastle Map—London. (Geog. Soc. of N. Y.)

Folding map entitled "Spanish North America." Published as the Act directs, August 20, 1818, by Longman, Hurst, Rees, Orme & Brown, Paternoster Row, London. In front of vol. I of *Spanish*

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North America, etc., by R. H. Bonnycastle, Captain of the Corps of Royal Engineers. 2 vols. Printed for Longman, Hurst, etc. London, 1818.

This map gives to Honduras most of the coast of Honduras Bay to the east of the mouth of the River Dulce, including Cape Three Points. The dotted boundary line is very distinct. It starts at the coast well to the west of Cape Three Points and runs due south, almost grazing the shore of the Gulf of Dulce at one point, until it strikes the Salvadorean frontier. But the map is weakened as evidence by the fact that the Gulf of Fonseca is placed wholly in Nicaragua.

1822.

1822—Strangeways Map—Edinburgh. (Lib. of Cong.)

"A Map of Mosqutia and the Territory of Poyais with the Adjacent Countries." This is a folding map in a volume containing the following writings:

Sketch of the Mosquito Shore, including the Territory of Poyais, etc. By Thomas Strangeways, K. G. C., captain first native poyer regiment, etc. Edin., 1822.

Some Account of Mosquito Territory. By Col. Robert Hodgson, formerly His Majesty's Superintendent, etc., of the Mosquito Shore. Edinburgh, 1822.

Memoir of the Mosquito Territory. By John Wright. London, 1808.

This map gives to Honduras all of the territory to the east of the Gulf and River of Dulce, as is indicated by the position of the word "Honduras."

1822.

1822—Tanner Map—Philadelphia (Geog. Soc. of N. Y.)

"Map of North America, constructed according to the latest information." By H. S. Tanner. Philadelphia, 1822. In *A New American Atlas.* By Henry S. Tanner, Philadelphia, 1823.

This map gives to Honduras the whole of the peninsula terminating in Cape Three Points, and also the whole of the territory drained by the Motagua River and its tributaries, including the towns of Gracias, Tencoa and Chiquimula. The dotted boundary line starts a little to the east of S. Thomas, on the south shore of what, in earlier maps, is called Pyrats Lagoon, and curves well to the southwest, not striking the transverse dotted boundary line until distinctly to the west of the Gulf of Dulce.

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1822.

1822—Morse Map—New Haven. (N. Y. Pub. Lib.)

Map entitled "North America." N. & S. S. Jocelyn Sc. In *A New Universal Atlas of the World*, etc. By Jedediah Morse, D. D., and Sidney E. Morse, A. M. New Haven. Published by Howe and Spalding, 1822.

MORSE, Jedediah, clergyman, born in Connecticut. Graduate of Yale; D. D.; Edinburgh, 1795. Teacher. He early showed considerable interest in geography and adapted from some of the larger English works a text book, which was so successful that it was later published under the title of *Geography Made Easy*. Also published other geographical writings, including *American Geography*, *The American Gazetteer*, and *Elements of Geography*. His works had extensive circulation and gained for him the title of "Father of American Geography." Samuel Morse, founder of the electric-magnetic telegraph, was his son.

MORSE, Sidney Edwards, journalist. Son of Jedediah. Aided father in his geographical works. His publications include *A New System of Modern Geography*, *North American Atlas, and Cerographic Maps.—Appleton's Ency. of Am. Biog.*

This map gives to Honduras the whole of the coast of the Bay of Honduras to the east of the mouth of the River Dulce, and also most of the territory to the east of the River and Gulf of Dulce. The dotted boundary line starts on the southeastern shore of the Gulf of Dulce and runs almost due south until striking the transverse line marking what is now the Salvadorean frontier.[1]

1823.

1823—Baily's Juarros Map.—London. (Geog. Soc. of N. Y.)

Folding map entitled "A Map of the Kingdom of Guatemala." Published by John Hearne. In J. Baily's translation of *A Statistical and Commercial History of Guatemala in Spanish America*, etc. By Don Domingo Juarros, a native of New Guatemala. Lieut. R. M. Lond. Printed for John Hearne, 1823. Map does not appear in Spanish original.

This map gives practically the whole coast of the Bay of Honduras to the east of the mouth of the River Dulce to the Province of Honduras. Cape Three Points and most of the territory drained by the Motagua River are part of Honduras. The dot-and-dash boundary line starts on the coast just to the east of Bodegas and runs due south slightly to the west of the Guanacos River until it strikes a western branch of the river, where it disappears.

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[1] *Edinburgh Gazetteer.* 6 vols. Edinburgh, 1822. (Lib. of Cong.)
"*Gracias a Dios*, a city of the Province of Honduras, situated on a river which communicates with the Bay of Honduras."
Clarke's New Geographical Dictionary. 2 vols. London, 1822. (Lib. of Cong.)
"*Gracias a Dios*, a town of Mexico, in the Province of Honduras * * *"

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"The Author, Don Domingo Juarros, being a dignified Secular Ecclesiastic, and Synodal Examiner of the Archbishopric of Guatemala, his rank gave him access to Records in the departments of Government, as well as to those of the different Convents: the exercise of his official duties occasioned him to visit various parts of the country, which afforded him every facility for making observations upon them. Of the more remote districts, to which personal inspection did not extend, his connection with the clergy enabled him to obtain accurate information from the heads of the different curacies, so that it may be fairly said, his materials have been drawn from sources that stamp upon them the character of authenticity."—Preface to Baily's Juarros, V–VI.

Baily's Juarros, pages 52–59:

Juarros places the following within the District of Comayagua: Truxillo, Gracias á Dios, New Valladolid or Comayagua, St. Gil de Buena Vista, El Triunfo de la Cruz (the last two are stated to be extinct), Naco Valley, St. Pedro Zula, St. Jorge Olanchito, Sonaguera, Yoro, Tencoa, Valley of Olancho, Valley of Morolica, Valley of Copan, St. Fernando de Omoa.

Pages 59–60:

In the District of Tegucigalpa he places two towns—Tegucigalpa and Xeres de la Choluteca. Xeres de la Frontera is in the Valley of Choluteca.

1824.

1824—Caxton Map—London. (Geog. Soc. of N. Y.)

Map entitled "Mexico, &c." Published by Henry Fisher Caxton, London, 1824.

This map gives to Honduras Province the whole coast of the Bay of Honduras to the east of the River Dulce, and also all of the interior to the east of the River and Bay of Dulce. The dotted boundary line starts on the shore of the Gulf of Dulce just where the shore line turns from almost due north and south to almost due east and west, and runs due south till reaching the main mountain range. But the map is weakened as evidence by the fact that the Gulf of Fonesca is placed wholly within Nicaragua.[1]

1826.

1826—Arrowsmith Map—London. (N. Y. Pub. Lib.)

"Map of Guatemala." Reduced from the Survey in the Archives of that country. 1826. London. Published January 13, 1826, by A. Arrowsmith, Hydrographer to His Majesty.

The boundary line on this map starts just to the west of Cape Three Points and runs in a southwestern direction, crossing the Motagua River and then following the mountains of Copan. It gives to Honduras the river mouth and the lower third or fourth of

[1] Poinsett, Joel Roberts, *Notes on Mexico, made in the autumn of 1822.* London, 1825. Appendix, p. 18. (Lib. of Cong.)

(POINSETT was American diplomatic representative in Mexico.)

Province of Honduras—District of Comax(y)agua.—Principal towns: Truxillo, Gracias á Dios, New Valladolid, or Comayagua, Buena Vista, Triunfo de la Cruz, Naco, Tula, Olanchito, Sonaguera, Yoro, Tencoa, Olancho, Morolicha, Copan.

District of Tegucigalpa.—Principal towns: Tegucigalpa, Xeres la Frontera.

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the river valley. San Pedro and Gracias are well to the east of the boundary line.[1]

1827.

1827—Vandermaelen Map—Brussels. (Geog. Soc. of N. Y.)

Map entitled "Partie du Guatemala." This is a map on Plate No. 72 of the *Atlas Universel de Geographie*, etc., pt. 4. By Ph. Vandermaelen, member of the Geographical Society of Paris. Lithographed by H. Ode, member of the Geographical Society of Paris. Brussels, 1827.

This map gives to Honduras most of the coast to the east of St. Thomas de Castillo, including Cape Three Points. The boundary line starts on the south shore of Pyrats Lagoon, at the west of Three Points, and runs due south for considerable distance, but later turns slightly to the west. However, the map is not very strong as evidence, for it is poor in several respects.

1828.

1828—Hall Map—London. (Lib. of Cong.)

Map entitled "Mexico and Guatemala," corrected from original information communicated by Simon A. Bourne, Esq., by Sidney

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[1] Humboldt, Alexander von, *Over den tegenwoordigen toestand van den vrijen Staat Centro-Amerika of Guatemala.* Paris, 1826. (Lib. of Cong.)

Page 58:

III. Estado de Honduras.

12 Partidos.

(1) *Comayagua* met de hoofdstad des Estado; Ciudad de Comayagua; voorts [in addition] Lejamini, Cururu, Chinacla, enz. [etc.].

(2) *Tegucigalpa*, p. cab. Tegucigalpa; voorts [in addition] Ojojana, Alugaren, enz. [etc.].

(3) *Choluteca*, p. c. Choluteca; voorts Texiguat, San Marcos, enz.

(4) *Nacaome*, p. c. Nacaome; voorts Pespire Aguanqueterique, enz.

(7) *Gracias*, p. c. Ciudad de Gracias; voorts Intibuca, Gualcha, enz.

(6) *Juticalpe*, p. c. Juticalpe; voorts Catacemas, enz.

(7) *Gracias*, p. c. Ciudad de Gracias; voorts Intibuca, Gualcha, enz.

(8) *Los Llanos*, p. c. Ciudad de Llanos; voorts Quesalica, Octotepeque, Quarita, enz.

(9) *Santa Barbara*, p. c. Santa Barbara; voorts San Pedro, Quinistan, Omoa, enz.

(10) *Truxillo*, p. c. Truxillo, Olanchito, enz.

(11) *Yoro*, p. c. Yoro; voorts Saluco, enz.

(12) *Segovia*, p. c. Somoto; verder Ocotal, Mozonte, Ticaro, Palucaguina, Pueblonuevo, Esteti, enz.

Chronologie Historique de l'Amerique. Par M. D. B. Warden, ancien consul-general des Etats-Unis d'Amerique, a Paris, Membre de l'Academie Royale des Sciences, etc. 10 vols. Paris. 1826–1844. (Lib. of Cong.)

In vol. I (1826), pp. 343–347, the following towns and villages are named as being in Honduras: 1. Nueva Valladolid, ou Comayagua; 2. Truxillo; 3. "Gracias a Dios, ville situee dans une vallee au pied d'une montagne, sous le 14° de lat. N. et le 288° 30′ de long. O., a trente huit lieues de Comayagua; 4. Tegucigalpa; 5. Xeres de la Frontera, ville situee dans la vallee de Choluteca, par lat. N. 12° 50′, long. O. 290°; 6. San Fernando de Omoa; 7. Copan; 8. "San Gil de Buena Vista, situé aupres du cap des Trois-Pointes, a l'E. du golfo Dolce, le premier etablissement, que les Espagnols aient forme sur la cote de Honduras, en 1523, n' existe plus;" 9. "El triunfo de la Cruz * * * qui n'existe plus;" 10. "San Juan, ville batie par Pedro de Alvarado, en 1536, est egalement detruite;" 11. "San Pedro Zula * * * est maintenant en ruines;" 12. San Jorge Olanchito.

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Hall. Published, London, Longman, Rees, Orme, Brown & Green. Mar. 1828. This is map No. 46 in *A New General Atlas*, etc., by Sidney Hall, London. Printed for Longman, Rees, etc. 1830.

This map is quite accurate physically, and in view of the date, places the boundary line unusually far to the west. No artificial boundary line is shown, but the Dulce drainage system is plainly indicated as the boundary. The "H" of the word "Honduras" is placed very near the River Dulce, as marked on the map, and *between* Dulce and the river Motagua.

1829.

1829—Hall Map—London. (Geog. Soc. of N. Y.)

Map entitled "The Republic of Guatemala, or the United Provinces of Central America." Engraved by Sidy. Hall. This map faces the title page of *Guatemala or the Republic of Central America in 1828–1829*, etc. By Henry Dunn. London, 1829.

This map gives no artificial boundary line but appears to make the Motagua River the line of division in the north, though the position of the word "Honduras" might be interpreted as applying to all territory east of the Dulce, as is true of the 1828 Hall map just preceding.

1829.

1829—Thompson Narrative Map—London. (Geog. Soc. of N. Y.)

"Chart to accompany Thompson's Official Visit to Guatemala, showing the Divisions of the States and the proposed junction of the Two Seas, 1829." In *Narrative of an Official Visit to Guatemala from Mexico.* By G. A. Thompson, late Sec. to His British Majesty's Mex. Commission & Commissioner to Report to His Majy's Govt. on the State of the Central Republic.

The boundary line of Honduras, which is broad and of a red color, crosses the Motagua in the lower part of its course, giving the mouth of the river and the lower part of the valley drained by it and also Cape Three Points to Honduras. Gracias is included within Honduras.

This map is of special interest in the light of evidence given in the text of Thompson's *Narrative.* Upon pages 449–450 appears the following:

Boundaries of States.

Although the Assembly, by its act of the 1st of July 1823, had declared the independence, the States of Honduras, Nicaragua, and Costa Rica had not then been represented: their adhesion was, however, subsequently pronounced on the 1st of October 1824, and the 5th of March 1825;—from which time these three states, in conjunction with those of Guatemala and San Salvador, formed the *Federal Republic.*

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A new division of the territories of these states had been made so as to give to each a due portion of the seacoast. The accompanying map which I planned with Done Jose de Valle, and is now first printed, will best show their respective boundaries.

Page 321:

Saturday, 9th July 1825. Being anxious to procure a chart of the divisions of the Five States, as newly established, I called on Valle,[1] he being the most likely person to assist my views; in this, however, I was not a little disappointed; it is true that the demarcation had been determined by legislative enactment, but no map had yet been formed to illustrate the new arrangement. We accordingly took one of Arrowsmith's maps which I had brought with me, and pencilled out the divisions in question.[2]

1830.

1830—Spanish Atlas Map—Madrid. (Madrid Archivs.)

Map of Guatemala, or Central America, drawn in quadruple enlargement by J. Garcia Bellido and J. Melero Moreno, Cartographers of the Division of Hydrography. Madrid, February, 1907. From the *Atlas of the Universal Geographical Dictionary.* 1830.

The boundaries are marked upon this map very roughly with broad lines. The western boundary of Honduras runs somewhat to the east of the Gulf of Dulce, but starts to the west of the Cape of Three Points, giving the latter to Honduras. Tencoa is placed within Honduras. Poor map, physically, in view of date. Also weak politically in that it gives Nicaragua the Gulf of Fonseca.

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[1] VALLE, Jose de, one of the leaders of the independence movement in Central America. He served as minister of state of Iturbide. From 1826–1829 he was a Federal deputy. He was elected to the presidency of the Republic but died, in 1834, before the certificates of election had been opened. Bentham and other European scholars were his friends, and he was a member of the French Academy of Sciences.—Bancroft, *Central America,* III, 26–27, and *passim.*

[2] *U. S. Docs.,* ser. No. 579, doc. 75, p. 42. Translation of Circular Letter by Don F. Castellon, envoy of Honduras and Nicaragua at Brussels, to the foreign ministers. Letter was originally addressed to Lord Aberdeen. (Lib. of Cong.)

Brussels, Sept. 28, 1844.

"* * * These facts being established, it remains for me only to state that * * * the limits of the States of Nicarague and Honduras being the same which existed when they were provinces *of* the old Kingdom of Guatemala * * * the State of Honduras extends from the State of Guatemala on the west eastward to Cape Gracias á Dios * * *"

U. S. Docs. ser No. 579, doc. 75, p. 291. "Report on the State of Affairs of Nicaragua," by F. Castellon. London, July 1849.

This report refers to a decree passed by the Federal Congress of Central America "on the 9th of December, 1823, which says in the article 1st: 'For the present and until the limits of each State shall have been fixed, ordered by the 7th article of the constitution, the district of Nicoya shall continue separated from the State of Nicaragua, and annexed to that of Costa Rica.'" Costa Rica, Castellon says, bases her claim to Nicoya partly on the above, but he gives four reasons why there is no valid basis for this claim. The fourth reason, as stated by Castellon, is "that the Congress having not fixed the limits by a law, before the dissolution of the Union, the annexation of the said district of Nicaragua was considered in the estimation of all of the States as provisional, and therefore Costa Rica can not claim any right to the said district."

(NOTE.—These statements of Castellon seem to give room for doubt as to whether, as Thompson says just above, a definite new territorial division took place in Central America after independence. For Castellon who had held a position in the Central Government appears at least as authoritative as Thompson.—M. W. W.)

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1831.

1831—Dower Map—London. (Lib. of Cong.)

Map entitled "Mexico and Guatemala," London. Published by Henry Teesdale & Co., March, 1831. Drawn and engraved by John Dower, London. This is map No. 38 in *A New Atlas of the World, Compiled from the latest authorities both English & Foreign*, etc. By John Dower. London. Pub. by Henry Teesdale & Co. March, 1831.

No boundary line appears upon this map, but the position of the name "Honduras" clearly indicates that the whole territory to the east of the River and Gulf of Dulce was looked upon as part of the province of Honduras.[1]

1832.

1832—Rivera Map, No. 1—Guatemala. (State Dept. Lib., Wash.)

Map entitled "Carta del Estado de Guatemala en Centro-America." Año de 1832 por M. Rivera Maestre. This is on plate I in *Atlas Guatemalteco* en ocho cartas formados y grabadas en Guatemala de orden del gefe del Estado C. Donor por Mariano Galvez. 1832. Bound with Marure's *Bosquejo historico de las Revoluciones de Centro America.* Guatemala. 1837.

This map gives the Rio Tinto as the boundary on the northeast. From the headwaters of the Tinto the line runs slightly west of

[1] *Diccionario Geografico Universal*, Dedicado a la Reina Nuestra Senora. Redactado de los mas Recientes y Acreditados Diccionarios de Europa particularmente, Españoles, Franceses, Ingleses y Alemanes. Por una Sociedad de Literatos: S, B, M, F, C, L, D. Barcelona, 1831–1834. 10 vols.

"*Honduras*, uno de los estados de Guatemala, en la llamada republica federal de la America Central * * * Sit. entre los 12° 45′ y los 16° lat. N., y entre los 81° 23′ y los 85° 33′ long 0. Tiene por limites, al E. una linea recta tirada desde una cumbre de la cordillera central de Guatemala (hacia los 13° 15′ lat. y los 81° 48′ long.), hasta el cabo Camarons y que le separa del territ. de los Mosquitos; al S. E., confina con estado de Nicaragua, y se estiende al S. hasta el golfo de Fonseca, formado por el Grande-Oceano equinoccial; su limite al S. O., hacia el estado de San Salvador, signe precisamente la direction de la cordillera central ya indicada; al O. esta en gran parte separado del estado de Guatemala por el lago Dulce, el rio Golfo y la Bahia Amatico; y al N. le bana la bahia de Honduras, formada por el mar de las Antillas * * *.

"Esta cortada en su parte merid. por la cordillera central que divide su territ. en dos grandes vertientes, en uno hacia la bahia de Honduras, y el otro hacia el Grande-Oceano equinoccial; surcan el primero una multitud de rios, entre los cuales los mas notables son: el Motagua, el Ulua, el Jagua y el Roman; por el vertiente merid. serpean el Fonseca y el Jeres."

(NOTA.—The preceding detailed description of the boundary would appear to be worthy of consideration for three reasons, (1) because it is from a Spanish work; (2) because of the date; (3) because the writer by his "en la *llamada* republica federal de la America Central" makes it clear that he realized that he was treating of Honduras in *independent* Central America. M. W. W.)

Diccionario Geografico Universal. Barcelona, 1831–1834.

"*Dulce*, lago de Guatemala, entre las provincias de Honduras, de Verapaz y de Chiquimula * * *"

"*Gracias-a-Dios*, o Cuidad-de-Gracias, C. de Guatemala, en la parte occ. del estado de Honduras, cab. del part. de Gracias * * *"

"*Tomas del Castillo* (San), lug. y puerto de Guatemala, est. de Honduras; sit. en el Golfo de este nombre * * *"

"*Tres-Puntas*, cabo de Guatemala, est. de *Honduras*."

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south. The line is here placed considerably farther east than in any of the earlier maps. This may be accounted for partly by the fact that the map was published in Guatemala. And yet it gives Guatemala more territory than did the Guatemalan instructions to the Boundary Commissioners in 1844; for these instructions state that the Motagua River was the dividing line between the two states for part of the distance.

1832.

1832—Rivera Map, No. 8—Guatemala. (State Dept. Lib., Wash.)

Map entitled "Departamento de Chiquimula," Año de 1832. Por M. Rivera Maestre. This is on plate 8 in *Atlas Guatemalteco* en ocho cartas formados y grabadas en Guatemala de orden del gefe del Estado C. Donor por Mariano Galvez. 1832. Bound with Marure's *Bosquejo historico de las Revoluciones de Centro America.* Guatemala, 1837.

This gives the Rio Tinto as the boundary, just as does the 1832–Rivera Map, No. 1; but it furnishes more details, making it clearer where the cartographer believed the line should run to the south of the Tinto. See comments upon the 1832–Rivera Map No. 1, just preceding.

1832.

1832—Haefkens Map—Holland. (Lib. of Cong.)

Map entitled "Kaart van Centraal Amerika, 1832." This is a folding map in the back of a book called *Centraal America*, by J. Haefkens, who was "oud-consul-generaal der Nederlanden in die Republik." Dordrecht. 1832.

There is no copy of this map in the accompanying set of reproductions. In this map the line of boundary starts on the east bank of the Motagua and swerves to the east, away from the river. The line is somewhat suggestive of the 1832 Rivera maps just preceding and was probably suggested to Haefkens when he was in Guatemala City by the same sources of information as influenced the position of the line on the Rivera maps.

1832.

1832—Brué map—Paris. (*Lib. of Cong.*)

Map entitled "Carte des Isles Antilles des etats-unis l'Amerique-Centrale," etc., seconde edition. Par A. Brué, Geographe du Roi, Paris, 1832. This is on plate No. 60 in *Atlas Universel de Geographie*, etc., seconde edition par A. Brué Geographe du Roi, Membre de la Societe Philomatique, de la Commission Centrale de la Societe Geographique, &c., Paris, 1830–1834.

This map shows a distinct boundary line which starts just to the west of Cape Three Points and runs southeast, crossing the Motagua

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and then following the mountains of Copan to the south and southwest. Cape Three Points and the lower part of the Motagua Valley are thus given to Honduras.

1834.

1834—Gulf Dulce. Hydr. Map, Br. Adm. (Lib. of Cong.)

"Central America, Eastern Coast. Gulf of Dulce in Guatemala." Surveyed by Comr. Richard Owen, R. N., 1834. Published according to Act of Parliament at the Hydrographic Office of the Admiralty, Jany. 15, 1839.

In this map the Gulf only is shown, with a few fringing mountains. To the northwest is the name "Vera Paz"; to the southeast "Honduras," the latter indicating by its positon that the British Admiralty in 1834 regarded all territory to the south and east of the Gulf as under the dominion of the State of Honduras.

This map would seem strong evidence on the boundary question, for the engineer was there in person and had a chance to learn the facts.

In the title to the map the word "Guatemala" is evidently used as synonymous with "Central America." See topic entitled "Misleading Use of the Name Guatemala," on page 535.

1834.

1834—River Dulce. Hydr. Map, Br. Adm. (Lib. of Cong.)

Map entitled "Central America, Eastern Coast. River Dulce in Guatemala." Surveyed by Comr. Richard Owen, R. N., 1834. London. Published according to the Act of Parliament at the Hydrographic Office of the Admiralty, Jany. 15th, 1839.

This map shows the Gulf of Dulce, the River Dulce, and the Gulf of Honduras. To the northwest of the river is the name "Vera Paz," and to the southeast "Honduras." The word "Honduras" is placed very near the margin of the river, thereby clearly indicating that all territory to the south and east of the river was looked upon by the British Admiralty in 1834 as under the dominion of Honduras.

This map would seem strong evidence on the boundary question, for the engineer was there in person and had a chance to learn the facts.

1834.

1834—Le Sage Map—Venice. (Lib. of Cong.)

Map entitled "Confederazione Guatimalese, etc." Par L'Atl. Stor. Polit. Geog. Letter. di A. Le Sage, Venezia, 1834. Tipografo Giralamo Tasso. This is map No. 22 in *Atlante Storico*, etc., vol. 2, of A. Le Sage, in the edition got out by Giambatista Albrizzi.

The boundary line appears to have been put in by hand on the original and is of a bright crimson, which shows black in the photographic copy. This map gives to Honduras the Cape of Three Points and all of the territory to the east of the Motagua, almost as

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far as its source. But the map is, in view of the date, a poor piece of cartography, and hence is not very valuable as evidence.

1835.

1835—Findlay Map—London. (Lib. of Cong.)

Map entitled "Mexico and Guatemala." London. Published by Thomas Kelly, 17 Paternoster Row, 1835. Drawn & Engraved by Alexr. Findlay. Map is to be found between pages 174 and 175 of *Wright's New and Comprehensive Gazetteer.* London, 1837.

The dotted boundary line starts west of Cape Three Points and runs almost due south for some distance, crossing the Motagua River and giving about the lower third of it, with Three Points, to Honduras. Farther south the line swerves to the west.

1835–1841.

1835–41—Honduras Gulf. Hyd. Map, Br. Adm. (Lib. of Cong.)

Map entitled "West Indies. Honduras Gulf with the Zapotilla Cays." Surveyed by Commrs. R. Owen & E. Barnett, 1835–1841. London. Published according to Act of Parliament at the Hydrographic Office of the Admiralty, Feby. 23rd, 1844.

This map shows clearly by the position of the name "State of Honduras" that in 1841 Honduras was looked upon as the owner of all of the coast as far west as St. Thomas Bight (Pyrats Lagoon), which is to the west of the peninsula ending in Cape Three Points. On the map the name "Rio Motagua" appears well to the northeast of the name "State of Honduras."

This would seem strong evidence on the question of the Honduran-Guatemalan boundary, for the engineers were on the Central American coast in person surveying and taking soundings and had opportunity to learn the facts regarding territorial jurisdiction.[1]

The Ruins of Copan.

[1] "A Letter from Col. Galindo to the Hon. Thos. L. Winthrop, Pres. of the Am. Antiq. Soc., Boston, Mass." Published in *Archaeologia Americana: Transactions and Collections of the Am. Antiq. Soc.*, vol. 2. Cambridge, 1836. (Lib. of Cong.)

(GALINDO, Juan. Colonel Galindo was an Irishman by birth, but a Central American by adoption. In the early thirties of the last century he tried to colonize a tract of land between the Sibun and the Sarstoon Rivers, granted to him by the State of Guatemala. The opposition of Chatfield, the British representative in Central America, led the Central American government to send Galindo to London to try to secure an agreement with Great Britain, but the British Government refused to receive Galindo on the ground that he was a British subject, and his mission ended in failure. Williams, *Isthmian Diplomacy*, 33–34. Colonel Galindo was at one time governor of the Province of Peten. He appears to have been a scholarly man and was a member of the Royal Geographical and Horticultural Societies of London, and of the Sociedad Economica of Guatemala. *Transacts. and Colls.*, II, 544, 550. He examined the ruins of Copan under a commission from the Government of Central America. Stephens, *Central America*, I, 131.) Copan, June 19, 1835.

Transacts. and Colls., II, 549: "* * * Copan has gradually fallen into decay; and is now reduced to a small hamlet, standing near where the brook of Sesemil falls into the Copan River, in the western suburb of the ancient city. This spot is within the modern State of Honduras, being four leagues to the eastward of the boundary with Guatemala, in latitude 14° 45′ north, and longitude 90° 52′ west from Greenwich."

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1839.

1839—British Col. Co. Map—London. (Col. Mem. Lib., Pan-Am. Union.)

Map entitled "The Territory of Verapas." This is a folding map, in a volume entitled *Brief Statement supported by Original Documents of the Important Grants Conceded to the East Coast of Central America Commercial and Agricultural Company By the State of Guatemala.* London. 1839.

No copy of this map has been included in the collection of reproductions accompanying this report, for it is virtually the same map as the one the description of which immediately follows, entitled 1840—British Col. Co.—London. The map of 1839 gives the lower part of the Motagua as the boundary line in the northwest, as indicated by the position of the word "Chiquimula."

Page 29 of the *Brief Statement* says that the territory of Verapaz was granted to the British company in 1834. The volume was published by the directors of the company. It contains a descriptive section, which is said (p. 93) to be based chiefly upon *Thompson's Narrative* (1829), and Haefkens, *Centraal Amerika* (1832). For notes on the maps accompanying these see pages 517–518 and 520, *supra.* Also see notes on 1840—British Col. Co. Map, which immediately follow.

1840.

1840—British Col. Co.—London. (Lib. of Cong.)

Map entitled "The Territory of Verapas," ceded by the Federal Government of Central America to the Directors of the British Company of Agriculture, Commerce & Colonization, With Part of the Surrounding Country, Compiled & Corrected from the Latest Authorities and Original Surveys Never Before Published." London. Printed by Alfred Adlard, April, 1840. This is a colored folding map found between pages 18 and 19 of a book entitled *Mémoire contenent un apercu statistique de l'etat de Guatemala, etc., indiquant Les avantages qu'il presente pour la Colonization du departement de Vera Paz et du district de Santo Thomas, dont la territoire a été cédé en propriete perpétuelle, avec des priviléges, á la Compagnie Commerciale et Agricole des Cotes orientales de l'Amerique Centrale, pour la fondation d'Établissemente coloniaux*, Bruxelles, 1840.

This map has the department of Vera Paz colored blue, the Belize settlements colored red, and the district of Santo Tomas colored yellow. This last shows very dark on the reproduction of the map. On this map the Motagua is represented as the boundary line between Guatemala and Honduras from a point about halfway between Encuentros and the place where the Higueras River enters the Motagua. That this is the approximate point of demarcation is

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indicated by the fact that here the name "Chiquimula" crosses the River Motagua. This is virtually the same map as that found in the *Brief Statement* of the British Colonization Company, printed in April, 1839, and described immediately above. The only difference appears to be in the coloring.

The map is of interest to the boundary question because it is found in a book which is a sort of transition volume between the *Brief Statement* of the British Colonization Company, published, in 1839, and *Amérique Centrale*, etc., of the Belgian company, published in Paris in 1844. The first two books contain many of the same documents, those in the first being in English and those in the second in French. The aim of the second book, as is shown by the letter addressed to the Belgian Minister of the Interior, in the front, was to interest the Belgians in the colonization of the district of Santo Tomas, which had been granted to the English Company in 1838. As the Roodenbeek Rapport of 1842, p. 62, shows, the English were unsuccessful, and the district of Santo Tomas was ceded to a Belgian company by the Government of Guatemala in 1843.

Memoire contenant un Apercu statistique de l'Etat de Guatemala, etc. Bruxelles, 1840. (Lib. of Cong.)

Pages 24–25: "La Motagua (Rio Grande) l'un des fleuves les plus considérables de l'Etat de Guatemala, prend sa source dans le Quesaltenango, entre la ville de ce nom, et Solola; il sert de limit au departement de Vera-Paz, au district de Santo Thomas, et se décharge dans l'Atlantique entre ce district et l'Etat d'Honduras."

1841.

1841—Bird Allen Map—London. (Lib. of Cong.)

"Map of Central America," to illustrate the papers of Capt. Bird Allen, R. N., etc. John Arrowsmith. Published for the *Journal of the Royal Geographical Society* by John Murray, London, 1841. This map accompanies the reprint from the Journal of the Royal Geographical Society, London, vol. 11, of the sketch of the eastern shore of Central America, compiled from the notes of Capt. Richard Owen and the officers of her majesty's ship *Thunder* and schooner *Lark*. By Capt. Bird Allen, R. N.

This map is of interest as interpreted by the following notes from Capt. Allen's paper, which indicate that Honduras was regarded as extending to Belize, from which it was separated by the Sarstoon River.

Sketch of the Eastern Coast of Central America, compiled from notes of Captain Richard Owen and the Officers of Her Majesty's Ship *Thunder*, and Schooner *Lark*. By Capt. Bird Allen, R. N., etc. Reprint from Jr. of Roy. Geog. Soc., Lond., 1841, vol. 11. (Lib. of Cong.)

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Page 83:

Through this district [the southern part of Belize] the streams Manati, Mullin's River, Stand Creek Sitee, Monkey River, Deep River, Golden Stream, Rio Grande, Moho River, Ternash, and Sarstun flow; the last divides this settlement from the State of Honduras.

Page 88:

The State of Honduras, one of the five districts composing the Republic of Central America, joins British Yucatan. The coast which we have now to describe runs E. or nearly at a right angle with that of the English settlement, extending a distance of 200 miles to the River Lamas, which separates this State from the Kingdom of Mosquitia.[1]

1841–1842.

1841–42—Lapie Map—Paris. (Lib. of Cong.)

Map entitled "Carte du Guatemala ou Provinces-Unies de l'Amerique Centrale." Gravé par Pierre Tardieu. This is an inset map on Plate No. 44e in *Atlas Universel de Geographie*, etc. Par M. Pierre Lapie, colonel au corps royal d'état-major, etc., et M. Alexandre Émile Lapie, captain au corps royal d'état-major, ancien eleve de l'école polytechnique, etc. Paris, 1841–1842.

This map gives Honduras Three Points. Also San Pedro and Naco. But it is weak as evidence, for the boundary lines are obviously put in very roughly.

About 1842.

About 1842—Lizars Map—Edinburgh. (Lib. of Cong.)

Map entitled "West India Islands and Adjacent Coasts," etc. Published by W. Lizars, Edinburgh. This is map No. 64 in Lizars' *Edinburgh Geographical General Atlas*, etc., Edinburgh. W. H. Lizars. 1842?

LIZARS, William Home. Native of Scotland. Painter and engraver. One of the founders of the Royal Scottish Academy.—*Dic. Nat. Biog.*

The dotted boundary line starts on the left bank of the River Dulce and runs to the southwest, keeping close to Gulfete and the Gulf of Dulce and giving to Honduras Cape of Three Points, the Bay of St. Thomas de Castillo, and the whole of the Motagua River system.

1843.

1843—Duvotenay Map—Paris. (Lib of Cong.)

Map entitled "Mexique et Guatemala." Par Th. Duvotenay, Geographe. Found at end of volume entitled *Mexique, Guatemala*

[1] *Sen. Exec. Docs.*, 32d Cong., 2d sess. Doc. No. 27, p. 12. (Lib. of Cong.)
Mr Webster to Mr. Murphy, Dept. of State, Wash., Aug. 6, 1841. "In 1835 the Government of Central America asked for the mediation of this Government with that of Great Britain, with the view to restraining the British settlers at Belize, *in Honduras*, from trespassing upon territory beyond the confines allotted to them by the treaties between Great Britain and Spain in regard to that settlement * * *"

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et Perou. Paris, 1843. The section on Mexico and Guatemala was written by M. De Larenaudiere. The book belongs to the series called *L'Univers. Histoire et description de tous les peuples.*

The map from which the copy was made was quite small and lacking in details, but the dotted boundary line is quite clear. This crosses the Motagua River, giving Cape Three Points and the lower part of the river to Honduras.

1844.

1844—Rousseau Guatemala Map—Paris. (Hispan. Soc. of Amer.)

"Carte du District de Santo-Thomas (État de Guatemala)." Dressée par Jim. Rousseau. In *Amérique Centrale. Colonisation du District de Santo-Thomas de Guatemala, par la Communauté de l'Union, fondée par la Compagnie Belge de Colonisation. Collection de Renseignements publies ou recueillis par la Compagnie.* Paris, 1844.

This map appears to make the Rio Tinto the boundary in the northwest. From the Tinto the line runs southeast, at some distance from the Motagua River. According to a statement made in the Instructions to the Guatemalan Boundary Commissioners in 1844, this map was copied from the 1832 Rivera map—Guatemala. (See page 49 for comments upon the Rivera map.) It is a poor piece of cartography, as is evident from the distortion of the Central American Isthmus, which gives an entirely incorrect angle to the coasts of Honduras. Such an error would make the map rather questionable as evidence regarding the Honduran-Guatemalan boundary. So would the fact that it varies so from the 1839 and 1840 British Col. Co. maps of London. (See pages 519–520 for comments upon these maps.)

1844.

1844—Belgian Coloniz. St. Thos. Map. (Rousseau)—Paris. (Hispan Soc. of Amer.)

"Carte de la Republique de l'Amérique Centrale." Dressée par. Jim. Rousseau. In *Amérique Centrale. Colonisation du District de Santo-Thomas de Guatemala*, etc. Paris, 1844.

This map is quite erroneous from a physical standpoint, an illustration of which is the direction given to the Motagua River. The map indicates the same boundaries for Honduras as the 1844 Rousseau Guatemala map—Paris. For comments with reference to this boundary line, see notes just above referring to the latter map.

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1847.

1847—Dunlop Map—London. (Geog. Soc. of N. Y.)

Map entitled "States forming the Republic of Central America." Compiled from entirely new information never before published. This map faces the title page of *Travels in Central America, being a Journal of Nearly Three Years' Residence in the Country.* By Robert Glasgow Dunlop. London. Longmans, Brown, Green & Longmans, 1847.

The preface states that Dunlop was a Scot, educated at London University, who was interested in trade in Central America.

This map indicates the Motagua River as the boundary between Guatemala and Honduras for most of the distance. In the southwest the boundary is indicated by a broken line which starts from the bend in the river and runs toward the southeast.

1849.

1849—Squier Map—Washington. (Lib. of Cong.)

"Map of Central America, showing the Pretended 'Mosquito Kingdom,' the route of the proposed Canal," etc., by E. G. Squier, 1849. This map is No. 1 among the folding maps at the end of document No. 75, *U. S. Docs.*, ser No. 579.

This map indicates the boundary by means of a dot-and-dash line which crosses the Motagua River about as in the 1829 Thompson Narrative map, giving Cape Three Points and the lower part of the Motagua Valley to Honduras. The towns of Copan and Gracias are included within Honduran territory. Though this map is weakened as evidence by the fact that it represents the Motagua River as flowing into the Gulf of Dulce, it is, nevertheless, more to be relied upon than the later maps published in Squier's *States of Central America* (1858), and his *Honduras* (1870), for the following reasons: (1) In the texts of the above-mentioned works Squier states that the ruined city of Copan is in Honduras, but in the accompanying maps he places the ruins to the *east* of the Espiritu Santo Mountains, and makes these mountains a part of the western boundary of Honduras. Here is a serious error, for if the mountains above mentioned formed the boundary at the time the maps were published, Copan was a Guatemalan possession, the ruins being actually to the west of the *Espiritu Santo range.* (2) Squier says that the "Republic of Honduras * * * comprises the territory which pertained to it as a Province" (*States of Central America*, p. 67; *Honduras*, p. 14); but in the accompanying maps he shows the boundary line as running from the mouth of the Rio Tinto to its source and then along the Espiritu Santo and Grita Mountains. That this was the line of division during

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colonial times seems to be contradicted by all obtainable cartographical and geographical evidence antedating 1822, for such evidence, though by no means unanimous with reference to *where* the line ran, in every case places it distinctly farther to the west than do the later Squier maps.[1]

1850.

1850—Disturnell Map—N. Y. (Geog. Soc. N. Y.)

"A New Map of Central America showing the different lines of Atlantic and Pacific Communication." New York. Published by J. Disturnell, 157 Broadway, 1850.

This map makes the Motagua River the boundary line between Guatemala and Honduras for nearly half of the distance. An artificial boundary line, indicated on the map by a broken line, starts from the river opposite the Gulf of Dulce and runs to the southeast. San Pedro and Gracias are both in Honduras.

1854.

1854—Costello Map—London. (Lib. of Cong.)

"Map of Yucatan and the Adjacent Territories, etc., as the[y] were known to the Spaniards from the first discovery of the Peninsula, in 1506, to the close of the Seventeenth Century, etc. Compiled from the earliest and corrected from the latest authorities." By Dudley Costello Esqre. 1854. Published by John Murray, London, 1854. This is a folding map at the back of *The History of Yucatan.* By Charles St. John Fancourt, Esq., recently H. M. superintendent of the British Settlements in the Bay of Honduras. London, 1854.

This map appears to give to Honduras all territory as far west as the Sarstoon; in any case, as far as the Dulce. It is interesting in that San Gil and Nito, places connected with Gil Gonzalez' activities in Honduras are found upon it. It is also noteworthy in that it shows Vera Paz as an *island* Province.[2]

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[1] *Encyclopaedia Metropolitana, or Universal Dictionary of Knowledge.* 25 vols. Edited by Smedley, Rose, and Rose. London. 1845. (Lib. of Cong.)

In the article upon *Honduras* in this encyclopaedia is included a description of the Valley of Copan.

Gazetteer of the World. Fullarton & Co. London. 1850–1856. (Lib. of Cong.)

"*Copan,* a ruined city of Guatemala, in the prov. of Honduras, district of Comayagua, on the r. or N. bank of a stream of the same name, which flows NW. into the Motagua * * *."

[2] A System of Geography, Popular and Scientific, by James Bell, author of *Critical Researches in Geography.* 6 vol. A. Fullarton & Co. Glasgow and London. 1834–1847. (Lib. of Cong.)

(BELL, James, a British geographical author. Devoted the labor of his life to geography. "Bell's fame as a geographical author reached its climax in his *System of Geography, Popular and Scientific,* Glasgow, 1830, 6 vols. 8 vo. It may be fairly urged that it opened a new era in the study of geography in our language * * *." "By his contemporaries Bell was held to be 'certainly one of the first critical geographers of this country.'"—*Dic. Nat. Biog.*)

Vol. VI (dated 1847), pp. 93–94: "*State of Honduras.*"

"This state is bounded * * * on the S. by the Gulf of Fonseca; on the S. W. by the course of the great central chain which divides it from the State of San Salvador;

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1881.

1881—Ammen-Bizemont Map—Paris. (Lib. of Cong.)

Map entitled "Les Isthmes Interoceaniques" d'apres la carte publiée par le Commodore Ammen dans le *Bulletin* de la Societe de Géographie Américaine. Gravé par R. Hausermann, Paris. This is a folding map at the back of *L'Amérique Centrale et le Canal de Panama*, par Le vte. Henri Louis Gabriel De Bizemont. Paris, 1881.

In this map the Motagua River is given as the boundary for nearly half of the distance in the west, and Copan is placed in Honduras. The line is almost identical with that of the Perry Directories Map of 1899, as modified by hand.[1] (See notes on 1899 Altschul map, revised, N. Y., p. 531.)

1882.

1882—Bancroft—San Francisco. (Lib. of Cong.)

"Map of Darien and Tierra Firma." This is the reproduction of a map from Bancroft's *History of the Pacific States*, vol. I, found in the front of Bancroft's *History of Central America*, Vol. I. San Francisco, 1882.

The map is of value for the understanding of the history of colonial Central America; for modern scientific methods have been employed in determining the situation upon the map of the ancient local place names.

1885.

1885—Cutler-Gallup Map—Chicago. (Lib. of Cong.)

"Map of the Republic of Honduras, Central America." By Abram Cutler and J. W. Gallup, civil engineers, assisted by Dr. R. Fritz-

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and on the W. by the Lake of Dolce, the Rio Golfo, and the Amatique Bay, which separates it from the State of Guatemala; and on the N. by the Bay of Honduras."

U. S. Docs., ser. No. 579, doc. 75, p. 97. (Lib. of Cong.)

Mr. Hise to Mr. Buchanan. Honduras, Port of Omoa, Oct. 26, 1848.

"The State of Honduras, including the region bounded by the Mosquito coast, and the coast extending from Cape Gracias á Dios to the Rio Dulce, is a most magnificant country, unsurpassed in scenes of grandeur and sublimity of aspect, and unrivalled in respect to its agricultural and mineral resources."

(Elijah Hise was chargé d'affaires of the United States in Guatemala, appointed in 1848. The letter from which the above quotation was taken was written on his way to Guatemala.)

Gazetteer of the World. A. Fullarton & Co. Edinburgh. 1850–1856. (Lib. of Cong.)

"*Belize,* Balise or British Honduras, or more properly British Yucatan, a district of Central America, stretching along the SE coast of Yucatan * * *. The Sarstun forms the boundary with the State of Honduras."

[1] *Encyclopedia Britannica.* 9th ed., Edinburgh. 1875–1888. (Lib. of Cong.)

"*Copan,* a village of Central America, in the Republic of Honduras, famous for the remarkable ruins in its neighborhood."

Granzow, F. C.: *Geografisk Lexikon.* 3 vols. Kiobenhavn. 1898. (Lib. of Cong.)

"*Copan,* Landsby i den vstl. Del af Mellemamrk. Rpbl. Honduras * * * naer Guatemalas Graense * * *."

Translation: Copan, a town in the western part of Central America, Republic of Honduras, near the Guatemala frontier.

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gaertner, Government geologist of Honduras. Copyright, 1885, by Cutler & Gallup. Rand, McNally & Co., engravers and printers, Chicago.

This is a large colored map which gives the boundary line as running along the southeast bank of the Rio Tinto for some distance and then turning farther to the east and following the Espiritu Santo Mountains. Copan is placed in Honduras; but the map is erroneous, for the Espiritu Santo Mountains are actually to the east of Copan. The map was very probably influenced, directly or indirectly, by the later Squier maps.

Fritzgaertner appears to have been a German connected with the Honduras mint.

1886.

1886—Byrne Map—New York. (Lib. of Cong.)

"Mapa de la Republica de Honduras." Por A. T. Byrne, C. E., M. E. Ingeniero Civil del Gobierno de Honduras. 1886. Publicado por G. W. & C. B. Colton y Compa. Nueva York. Note on map: "Se vende por E. C. Fiallos y Compania, Ingenieros civiles y mechanicos y peritos de minas en la Republica por Acuerdo especial del Supremo Gobierno. Tegucigalpa."

This map, which, according to the statement of Dr. P. Bonilla, was not authorized by the Government of Honduras, places the boundary farther to the east in the northwestern part of Honduras than any other map previously considered. The line begins at the mouth of the Cuyamel River and runs to the southwest along what are marked as the Espiritu Santo, Grita, and Merendon Mountains. The error mentioned in connection with preceding map was also made in this in the southwest. The Copan Mountains were evidently mistaken for the Grita range by the engineer. In any case, in this part of the frontier the line runs along the approximate position of the Copan Mountains and crosses the Copan River about where the town of Comotón should appear. The towns of Playon and Copan are placed considerably to the east of the boundary line, but the latter are situated on the wrong side of the Copan River.

(Cf. notes upon 1900 Byrne and Le Baron map—N. Y., pages 531, 532.)

1899.

1899—Altschul Map—New York. (Lib. of Cong.)

"1899 Mapa de Honduras." Elaborado por Francisco Altschul para el Directorio Nacional de Honduras. Publicado por la Spanish-American Directories Co., Nueva York, E. E. U. U. Copyright, 1898, by G. R. Perry. Es Propriedad, Francisco Altschul, Tegucigalpa, Honduras.

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This map was made for postal purposes. Francisco Altschul was connected with the Honduras post office. The boundary line starts in the northwest at the mouth of the Motagua River and follows that stream to the mouth of a small tributary, the Rio Negro, which then becomes the line to its source, after which the boundary runs generally parallel to the Motagua, but to the southeast of it, as far as the fifteenth parallel. Here it takes a due south trend and passes just to the east of Comotón. The ruins of Copan are placed within Honduras.

(Cf. notes immediately following upon the 1899 Altschul map, Revised—New York.)

1899.

1899—Altschul Map, Revised—New York. (Col. Mem. Lib., Pan Am. Union.)

"1899 Mapa de Honduras." Elaborado por Francisco Altschul para el Directorio Nacional de Honduras. Publicado por la Spanish-American Directories Co., Nueva York, E. E. U. U. Copyright, 1898, by G. R. Perry. El Propiedad, Francisco Altschul, Tegucigalpa, Honduras.

No copy of this map is included in the accompanying set of reproductions. The map is the 1899 Altschul one as revised upon the insistence of Dr. P. Bonilla.

Dr. Bonilla was president of Honduras when the Directories Company got out the map. When he saw how unfavorable to Honduras' boundary claims the map was, Dr. Bonilla refused to authorize the directory until changes were made in the map. Therefore the publishers had the copies of the map changed by hand. The northwest boundary line, where it falls short of the Motagua, was crossed out with ink to about as far to the southwest as Amates, near which point a new line, put in with pen and ink, was made, crossing the river and running down along the northwest bank of the river until reaching the printed dot-and-dash line to the northwest of the river. The enclosed space between the river and the old boundary line was colored by hand a sort of blended pink and buff—the color of Copan district.

The above description is from a map in the Columbus Memorial Library at the Pan American Union. It had been taken out of the Perry Directory and placed with the loose maps. The Altschul map in the Library of Congress somehow escaped modification. It may never have been in the directory, though made from the same plate as the folding map in it. Dr. Bonilla is authority for the above information.

1900.

1900—Byrne and Le Baron Map—New York. (Lib. of Cong.)

"Mapa de la Republica de Honduras." Por A. T. Byrne, C. E., M. E. Ingeniero Civil del Gobierno de Honduras. Con adiciones y

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correciones hasta la fecha por J. Francis Le Baron, C. E. Publicado por Colton, Ohman y Compa. Neuva York. Copyright, 1900, by Colton, Ohman & Co., New York.

This is the Byrne map of 1886, corrected by Le Baron. The Motagua is made the boundary from its mouth as far as the district of Copan, where the line turns and runs to the southeast for a short distance, and then turns southwest again, following the Grita Mountains. But here again the mountains are on the wrong side of Copan, which is placed in Honduras. In fact, the line in the southwest appears identical with that of the Byrne map of 1886, and the ruins of Copan are also again placed on the wrong side of the Copan River.[1]

BRIEF COMMENTARY UPON GEOGRAPHICAL NAMES FOUND IN THE TERRITORY IN DISPUTE BETWEEN HONDURAS AND GUATEMALA.

Only names about which some question might arise are here considered; and in the case of more than one name being applied to a place, the one most frequently employed is, as a rule, given most prominence.

AMAPALA, or AMAPALLA. See Fonseca.

AMATIQUE, gulf. See Guanacos.

AMATIQUE, a small town placed upon the early maps between Cape Three Points and the mouth of the Dulce River. At times identified with St. Thomas de Castillo, which appears to have been another place.

CABALLOS, PUERTO DE, a harbor between Cape Three Points and Triunfo de la Cruz. The name originated with Gil Gonzales Davila and is to be found upon the *1529 Spanish Official Map* as "Cauallos." Other forms of spelling, due to the language in which the map is printed or to the period, are Cauoillos, Cauallos, Cauellos, Cabellos, Cavallos.

A river Caballos also appears upon some of the early maps slightly to the west of Cape Honduras.

CONCHAGUA. See Fonseca.

DELBA. See Ulua.

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[1] *Lippincott's Complete Pronouncing Gazetteer of the World.* Phila. 1855. (Lib. of Cong.)

"*Copan* * * * a ruined city of Central America, in the State of Guatemala, 30 miles E. of Chiquimula."

The edition of 1855 is the first edition of Lippincott. The editions of 1864, 1866, 1880, 1883, 1885, 1886, 1889, 1893, 1898, 1900, and 1904 all give the same location for Copan as the first one. But the edition of 1905 states that Copan is "a ruined city of Honduras, 39 miles SE. of Chiquimula."

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DULCE, gulf and river in western Central America. At present this waterway from gulf to outlet in the Bay of Honduras bears the names Gulf of Dulce (or Lake Izabel), Golfete, and River of Dulce, with greatly varied spellings. On some of the earlier maps this whole drainage system is called Dolche Bay; on others the gulf (or lake) proper is called Golfo de Honda; also Laguna de Guatemala; and the River Dulce is on one map called Rio Dulse, or Honduras.

FONDURA. See Honduras.

FONSECA, gulf on the south coast of Central America whose waters wash the shores of Salvador, Honduras, and Nicaragua. Also known as the Gulf of Conchagua, or Amapala Bay.

GRACIOSA, inlet just to the west of Cape Three Points. Called Hospital Bight upon *1835–1841 Honduras Gulf, Hyd. Br. Adm. map.*

GRANDE, RIO, name applied to several rivers of Central America, which has led to some confusion on the part of the mapmakers. Since *grande* in Spanish means "great" or "large," the name was probably used in a common or descriptive sense by early writers; and cartographers—particularly the later ones—looked upon the word as a special name or proper noun. A Rio Grande is found just to the west of Cape Camaron on the 1544 Cabot map. The large stream flowing into the head of the Gulf of Dulce is also called Rio Grande on some of the early maps, but Rio Guatemala upon others of the same general period. Later ones call it San Pablo, or Polochic. The Motagua, as a whole, or its upper waters, has also been called the Rio Grande, a fact which probably explains why the 1849 Squier map represents the Motagua as flowing into the Gulf of Dulce.

GUANACOS, GUANAXOS, or GUANAJOS, a gulf between Cape Three Points and the peninsula of Yucatan. This name most frequently given upon the earlier maps. Later, displaced to some extent by the names (gulf or bay) of Higueras, or Honduras. Now generally known as Gulf of Amatique.

GUANACOS, river. See Motagua.

GUATEMALA, river. See Grande, Rio.

HIGUERAS, or HIBUERAS, a point of land at the mouth of the Rio Dulce. See also Honduras.

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HONDURAS, name applied to a province (later a state), bay, gulf, coast, and cape of Central America. A careful study of the map will usually make clear the application of the name, even when a class name is not given. In some cases the name Fondura, which is merely another form of the word, is used as a synonym. This form is used of the province and of the Cape of Honduras particularly. Higueras, Figueras, and Figeras are also used as synonyms as applied to the province or coast of Honduras. Thus, the 1698 Coronelli map bears the phrase "Tierra de Hibueras ó Honduras."

MANABIQUE, or MANAVIQUE, cape or peninsula. See Three Points.

MANABIQUE, or MANAVIQUE, a small inlet. See Thomas, St., De Castillo.

MOTAGUA, MOTAGUE, MONTAGUA, MOLAGUA, MORTAGUA, MORTUGUA, MALAGUA, etc., a river along the western frontier of Honduras. Probably called Peche at first. Later named Guanacos, Guanacos, Guanios, etc. Also occasionally known as Rio Grande. Upper part of river still, at times, called Rio Grande. The large eastern branch of the river is the Copan, which seems to have been at times called the Higueras formerly.

(See article upon *The Changes in the Course of the Motagua River*, page 540 ff.)

NACO, a river named upon the early maps. It does not seem possible to identify with certainty the stream upon modern maps. Most probably it was what was also called the Sel, or Sal. This stream has also disappeared from the maps. The names may have been borne by the Chamelicon or the Ulua of the present day.

PECHE, PECH, PICHE, POCHI, PUCHI, PUCHE, etc., a river which appears upon the early maps. It is the first river to the east of Cape Three Points on almost every map upon which it is named. The stream to which the name was applied was probably the Motagua.

(See article upon *The Changes in the Course of the Motagua River*, page 540 ff.)

POLOCHIC. See Grande, Rio.

PYRATS LAGOON. See Thomas, St., De Castillo, a small inlet.

THOMAS, ST., DE CASTILLO, a small inlet to the west of Cape Three Points. Also called Pyrats Lagoon, Laguna de Pertao, Golfete, Gulf of St. Joine, and Gulf of Manivique upon the early maps.

THOMAS, ST., DE CASTILLO, fort upon inlet of the same name, to the west of Cape Three Points.

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THREE POINTS, a cape between the mouths of the Dulce and of the Motagua rivers. Sometimes the maps substitute the name Manavique, Manavigue, Manabique, Manachi, or Malavique, but up-to-date maps usually apply one form or the other of this last name to the peninsula and "Three Points" to the cape in which it terminates.

ULUA, ULHUA, ULOA, ULLOA, OLUA, a river emptying into the Bay of Honduras slightly to the west of Triunfo de la Cruz. Upon the 1666 Goos map and upon occasional other maps for about a century the name is given as Delba, though Ulua appears upon earlier maps. It seems probable that the name "Delba" originated through the illegibility of the correct name in cartographical or geographical data employed by map makers.

MISLEADING USE OF THE NAME "GUATEMALA."

In studying the geographical evidence, in particular, bearing upon the Honduran-Guatemalan boundary question, it is well to remember that statements that certain points lie within "Guatemala" at times mean nothing more than that the places in question were regarded by the writer of such statements as being a part of Central America; for that "Guatemala" was used as a synonym of "Central America," not only during the colonial era and the period of federation, but also long afterwards, is shown by the following extracts from gazetteers of the forties and fifties of the last century:

M'Culloch's Universal Gazetteer. 2 Vols. New York. 1847. (Lib. of Cong.):

Guatemala, Guatimala, or Central America. Under this term is included the long and comparatively narrow tract of country * * *.

Gazetteer of the World. Fullarton & Co. London. 1850–1856. (Lib. of Cong.):

Copan, a ruined city of Guatemala, in the Prov. of Honduras, district of Comayagua, on the r. or N. bank of a stream of the same name, which flows NW. into the Motagua. * * *

If, in the above, for the sake of brevity, the words "in the Prov. of Honduras, district of Comayagua" had been omitted, an entirely different impression from that intended would have been produced upon the mind of a reader unfamiliar with the comprehensive use of the name in question.

Another entry in the last quoted gazetteer reads as follows:

Caballo (Puerto), a small harbor, formed by a low sandy point to seaward, on the N. coast of Guatimala, in N. lat. 15° 40′, 7 m. NE. by E. of Omoa.

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It might be argued from the preceding quotation that Puerto Caballo was looked upon by the writer of the note as being in the *State* of Guatemala, rather than in the *State* of Honduras, else the latter would have been definitely mentioned; but such a conclusion by no means follows from the omission, for all sorts of inconsistencies are likely to be found in the works of reference, like gazetteers, particularly those not of recent date. It might, on the other hand, from abundant contemporary cartographical and geographical evidence, be presumed that the place was regarded by the author of the entry as under the jurisdiction of Honduras, but neither is such a presumption warranted by the words of the quotation. All that can be legitimately concluded from the quotation itself is that the writer placed Puerto Caballo in *Central America*.

THE EVIDENCE FURNISHED BY STEPHENS' "INCIDENTS OF TRAVEL IN CENTRAL AMERICA" REGARDING THE HONDURAN-GUATEMALAN BOUNDARY.

John Lloyd Stephens was born in New Jersey in 1805. After graduating from Columbia University, he practiced law in New York City for some years. In 1839 he was sent by President Van Buren to negotiate a treaty with the Government of Central America; but the Confederation was falling to pieces when he arrived, and he did not succeed in the object of his mission. He became a member, in 1849, of the company for building a railroad across the Isthmus of Panama, and the remainder of his life was devoted to the prosecution of this enterprise.

While on his way to Guatemala City, at the time of his visit to Central America as special minister from the United States Government, Stephens, accompanied by the English artist, Frederick Catherwood, made a side trip to Copan for the purpose of studying the ruined city. This excursion, as well as his other experiences in Central America during this visit are described in Stephens' *Incidents of Travel in Central America, Chiapas, and Yucatan*, 2 vols., New York, 1841. *Appleton's Cyclopedia of Amer. Biog.* (Rev. ed.)

ROUTE FOLLOWED BY STEPHENS FROM GUALAN TO ESQUIPULAS, VIA COPAN.

Stephens' account of this part of his travels in Central America is given in *Incidents of Travel in Central America, Chiapas, and Yucatan*, vol. 1, pp. 67 to 166. The author fails to mention specific dates which would be useful, but he states that he left New York October 3, 1839 (p. 9), so, in all probability, the visit to the ruins took place before the end of the same year.

The party left Gualan one morning and followed the Motagua River—which was on their right—for some distance, reaching Zacapa on the afternoon of the same day (pp. 67–68). They departed from Zacapa at 7 o'clock a. m., and an hour afterwards forded the Motagua River (p. 72). For an hour after crossing the river they continued upon the plain of Zacapa, after which the route lay through broken and mountainous country. They reached Chiquimula at 2 o'clock of the same day (p. 73). Leaving Chiquimula at seven in the morning (p. 76) they passed to the right of Jocatón (Hocotan) at four in the

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afternoon (p. 78), and arrived at Comotón about two hours later (pp. 78–80). It was morning when they departed from Comoton (p. 85), and at about noon of the same day they crossed the Copan River (p. 86). They spent the night at the hacienda of San Antonio (pp. 87–90). After leaving the hacienda the next morning, they passed through exceedingly rough country, in which, for a time, they lost their way (p. 90).

Of this rough region Stephens writes:

> Somewhere on this road, but unmarked by any visible sign, we crossed the boundary line of the State of Guatemala and entered Honduras. (p. 90.)

At 2 o'clock of the same day the party entered the village of Copan (p. 90). No one there with whom they spoke was able to direct them to the ruins, and all advised them to go to the hacienda of Don Gregorio. This they did, fording the Copan River to reach it, for the hacienda was on the left side of the stream (p. 91). The following morning they left the hacienda with a guide who cut a path for them through the woods, and they soon reached the Copan River, which here ran north and south, and saw running along the opposite bank the high stone walls which formed a part of the ruined city (p. 95).

Of Copan Stephens says:

> It lies in the district of country now known as the State of Honduras, one of the most fertile valleys in Central America, and to this day famed for the superiority of its tobacco (p. 132).

After spending some time examining and surveying the ruins, Stephens decided to go on to Guatemala City, leaving Mr. Catherwood to complete his drawings of the sculptured figures which formed a part of the ruins. On departing from the ruined city Stephens passed through the village of Copan, and then crossed the Copan River. Leaving his muleteer on the bank of the stream, he went to the hacienda of Don Gregorio to pay some bills, and then returned to the river (p. 161).

Of the next division of the route Stephens writes:

> For some distance the road lay along the river. The Copan has no storied associations, but the Guadalquivir can not be more beautiful. On each side were mountains and at every turn a new view. We crossed a high range, and at four o'clock again came down upon the river, which was here the boundary line of the State of Honduras. It was broad and rapid, deep and broken by banks of sand and gravel. Fording it, I again entered the State of Guatemala. There was no village, not even a house in sight, and no difficulty about a passport (p. 162).

After stopping for some time at the hacienda of Don Clementino (pp. 162–165), Stephens continued on his way to Esquipulas, bound for Guatemala City. In order to reach Esquipulas it was necessary to cross the great Sierra which divides the streams of the Atlantic from those emptying into the Pacific (p. 165). On descending the

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mountains he perceived the great church of Esquipulas in the distance, and late in the afternoon of the day of his departure from Don Clementino's he entered the town of Esquipulas (p. 165).

DISCUSSION.

The time taken by Stephens for covering the distance between points cannot be taken into very serious consideration in determining the parts of the boundary mentioned by him; for various modifying factors were involved, including delays upon the way and the greatly varying quality of the roads. Yet, without any aid from the time element mentioned by him, Stephens's statements are valuable as offering corroboration of Honduras's land-title boundary claim. The only divergencies which seem possible between the line suggested by the points indicated by Stephens and the documented line would place the boundary farther to the west, thus favoring Honduras to a greater degree.

It appears fair to assume that the line just above the great bend in the Copan River then (as the documented line does now) ran north and south. This being true, the part of the boundary crossed by Stephens when he *entered* Honduras—between his crossing the Copan River and his arrival at the village of Copan (p. 90)—must have been in the section marked X on the documented line, or in a line, probably parallel, farther to the *west*. (See map on opposite page.) A line farther to the east than the documented line would not fit the description by Stephens, for it would not coincide with the river, as Stephens said that the boundary did at the point of his departure from Honduras (p. 162). And that the point referred to by Stephens as forming part of the boundary line must have been upon the part of the river where it runs north—marked Y on the accompanying map—rather than upon the portion where the stream has a western course, is evident from a study of Stephens's narrative in connection with the map. Any other conclusion seems to prevent the description by Stephens from corresponding with the facts of Honduras' physical geography.

To make this clear it is necessary to consider carefully Stephens' movements the day he left Copan. On the morning he crossed the river and made a call upon Don Gregorio, and then returned to the river where he had left his muleteer (p. 161). Though his narrative does not specifically state so, he must have again crossed to the right bank of the river, else there would have been no Copan River between him and Esquipulas, to be crossed later in the day; and he must have followed the *right* bank of the stream in the part of the route where "the road lay along the river" (p. 162). After this, the account says (p. 162), he "crossed a high range, and at four o'clock again came down upon the river" (p. 162). In order to get away from the river and cross mountains and *then again* reach the

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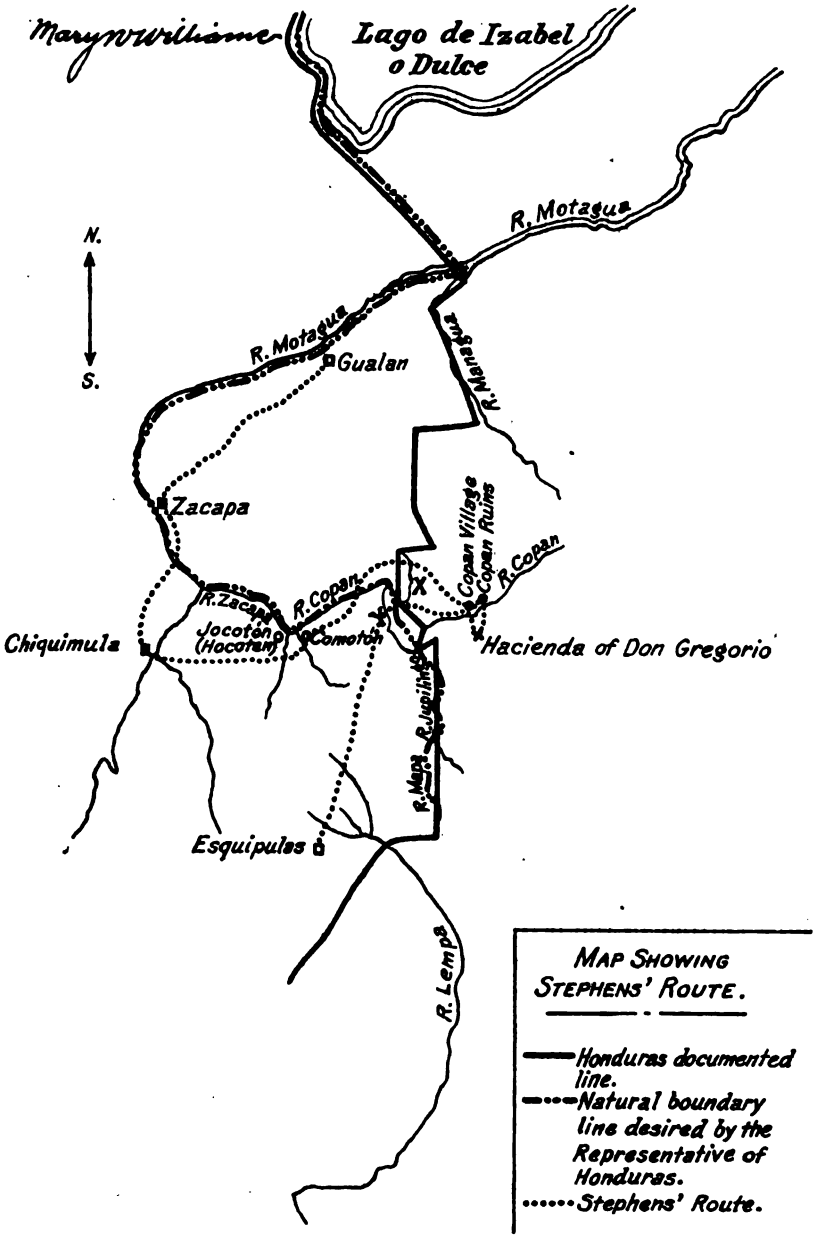

This map has for its foundation a tracing from a reduced photographic copy of a blueprint map, made by the Honduras engineers and dated June 6, 1918. The original of the tracing shows five different boundary lines.

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river, the only direction that Stephens could have traveled—as a glance at the map will show—was west or northwest, which would bring him to the Copan River where it follows a course toward the north. If the point at which he crossed the Copan this last time was very near where it makes its bend toward the southwest, the boundary line mentioned by him as the place where he crossed would coincide with the same point on the "natural boundary line desired by the representative of Honduras," where it touches "Honduras' documented line" at the north, in the great bend of the Copan River. If the point at which Stephens crossed was farther south—and this seems the only other alternative—it must have been west of the present documented line of Honduras, or somewhere on the natural boundary line desired by the representative of Honduras.

CHANGES IN THE COURSE OF THE MOTAGUA RIVER.

It is a fact beyond question that the course of the Motagua River has altered within about eighty years' time to such an extent as to shift a strip of Central American soil several kilometers in width from the east to the west bank of the stream. And it is highly probable that within about a century the mouth of the river was still farther west.

THE PRESENT MOUTH OF THE MOTAGUA.

Some maps and geographical works indicate that the Motagua at present enters the ocean through the little stream called Cuyamel, but this is an error, for the Cuyamel, which is correctly placed with relation to the Motagua upon the annexed map (p. 544), is about seven kilometers to the east of the larger river. The present point of discharge of the waters of the Motagua is the mouth of the Rio Tinto, as is shown by the accompanying map and also by many maps published during the past eighty years. Just when the flow of the Motagua shifted to the bed of the Tinto cannot be stated exactly, but it can be approximated very closely.

The 1835–1841 Honduras Gulf, Hydr. Br. Adm. map, based upon the careful surveys of the British Government, and therefore worthy of consideration as regards the facts of Central American coast geography, in particular, places the mouth of the Motagua about half way between San Francisco and the Tinto Rivers, or approximately twelve kilometers *west* of the present Tinto mouth of the river. But that the Motagua had transferred to the bed of the Tinto for the lower part of its course by 1850 may be concluded not only from the tendency of the maps of the period to give the Tinto as the mouth, but also from the statement made in Fullarton's *Gazetteer of the World* that

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Its [the Motagua's] mouth is barred but it has been making a new channel of discharge for itself for some years past, and now forms a junction in the lower part of its course with the Cuyamel or Tinto.[1]

THE MONTAGUILLA AS THE MOUTH OF THE MOTAGUA.

The changes in the direction of the Motagua were probably produced in some instances by storms, and also by obstructions thrown into the stream at some distance up its course, as, for instance, partial or complete dams of logs made by wood cutters. But that variations in the direction of the river were likewise caused by sand bars which gradually formed and choked existing exits, is indicated in the quotation just given. In this connection it should be noted that the whole coast between the Rio Tinto and St. Thomas is low and sandy, making it possible for the Motagua to have had several places of exit at different times, or at the same time, in the course of travel to the east along the coast between given points but a few kilometers apart. The 1844 Belgian Colonization, St. Thomas map furnishes a graphic illustration of this. Here two mouths are represented, the Montaguilla and the Montague, the latter evidently being the main point of discharge for the river. The Guatemalan instructions to the commissioners, made in 1844, states (p. 11) that from "oral information" it was known that the Montaguilla was the former river bed. This "former river bed" is perhaps fourteen kilometers from the mouth of the Tinto.

THE SAN FRANCISCO AS THE PROBABLE MOUTH OF THE MOTAGUA.

That the Montaguilla was not for a very long period the mouth of the Motagua is fairly evident from the nature of the coast alone; and the additional witness of the maps makes it almost certain that at about the end of the eighteenth century the waters of the Motagua reached the sea through the channel of the San Francisco River, which is about twenty-four kilometers to the west of the mouth of the Tinto. The accompanying map shows the San Francisco as connected by its headwaters with the Motagua. Though such a connection perhaps does not actually exist, the source of the San Francisco is, nevertheless, very close to the present channel of the Motagua—so close that it is easy to believe that at one time the Motagua had a channel identical with the San Francisco for the latter's whole course. A heavy storm or some obstruction near the point of separation would have been sufficient to split one river into two streams.

The early maps give strong support to this theory. For instance, no San Francisco River is to be found upon the early maps. Fur-

[1] Fullarton's *Gazetteer*, composed of seven volumes, was published in London, 1850–1856.

The confusion of the Tinto with the Cuyamel needs no comment, in view of what has just been said about the latter stream.

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thermore, on the maps of a date previous to about 1835 the Motagua is either given the *westernmost* position of any river named to the *east* of Cape Three Points or is made to empty to the *west* of the cape. Virtually every map made previous to 1800 gives the mouth of the river the latter position.[1] We know from documentary evidence below quoted[2] that the true mouth of the Motagua was found to the *east* of the cape as early as 1744, but if subsequent to this date the Motagua followed the channel of the present San Francisco, or had a course approximately the same as the San Francisco, it is easy to explain how the cartographers came to represent the Motagua in the manner mentioned. A glance at the accompanying map will be of aid. This map shows Manabique as an island separated from the mainland by a narrow channel into which the San Francisco River flows.[3] That such a representation is justifiable and that Manabique is virtually an island is evident from the 1835–1841 Honduras Gulf Hydr. Br. Adm. map. The latter indicates that the lagoon into which the San Francisco flows was connected with Graciosa—called on the map Hospital Bight—by a "Canal for canoes from the S. Francisco River, used by the mahogany cutters." When (or if) at an earlier period the copious Motagua followed the channel possessed in 1835–1841 by the San Francisco, or if—what seems even more likely—the mouth of the Motagua was a little farther west than that of the San Francisco at the date just mentioned, it is evident that the "canal for canoes" could have been a broad stream or channel which casual observers of early times might easily mistake for the Motagua itself and therefore suppose that the mouth of the river was at or near Graciosa, *west of Cape Three Points*.[4]

CONFUSION OF THE CARTOGRAPHERS REGARDING THE LOCATION OF THE MOUTH OF THE MOTAGUA.

The concealment of the mouth of the Motagua by Manavique is perhaps the explanation of the peculiar fact that the early cartographers separated the mouth of the river from its upper waters,

[1] There are a few interesting exceptions, which will be considered below.

[2] The Motagua River, which is very copious and up which large "piraguas" (canoes) can go for many leagues, is on the coast of Honduras running from west to east therefrom, about 8 leagues from the mouth of the Golfo, descending from the Sacapa Mountains. Between the mouth of the Golfo and this river is Point Manachi (*sic*) and two small ports called Gracioso and Santo Tomas de Castilla, and the River Chiquel which is not navigable. (Trans. from MS. Description of the Kingdom of Guatemala, by Luis Diez Navarro, engineer. Dated Guatemala, May 30, 1744.)

The Motagua River is on the coast of Honduras running from west to east therefrom at a distance of about 8 leagues from the mouth of the Golfo, "montando" (mounting?) Manabique Point. It is very copious, descends from the mountains of Capa Chiquimula and Verapaz, and "piraguas" (canoes) can go up same to Zacapa.

Between the mouth of the Golfo and this river is Point Malabique (*sic*) and two small ports called Gracioso and Santo Tomas de Castilla, and the Tichel (*sic*) which is small. (Trans. from MS. report of same engineer, dated Nov. 20, 1758.)

[3] The map on page 406 of the *Rand, McNally Commercial Atlas of 1918* does this also.

[4] Dr. P. Bonilla first called my attention to the possible early connection of the San Francisco and the Motagua.

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and that they drew upon their imaginations to supply headwaters for the detached mouth and a mouth for the detached headwaters, representing the stream upon their maps as *two* rivers quite far apart. The location of the true mouth, usually represented to the east of Three Points, or Manavique, was probably learned from information furnished by mariners. The stream debouching at this mouth is, as a rule, insignificant in size. The true upper waters of the river, doubtless heard of from the log cutters who worked in the mahogany forests along their banks, are forked and copious and occupy a position approximately correct for the sources of the Motagua of to-day. This river is made to empty into the Pyrats Lagoon, which was the most direct and logical place for it to discharge.

The stream based upon the knowledge regarding the mouth of the Motagua generally bears a name, while for a long period the forked river of the log cutters remains a nameless "river of mystery," though in appearance on the maps much larger and more important than most of the rivers always carefully named.

The first hint of the interesting error regarding the Motagua is given on the 1601 Herrera, No. 6 map. Here the name Puche is maps on the 1754 Bellin map—Paris. But confusion still lingered Emptying well to the west of Three Points is the nameless forked river formed from the headwaters. And thus the two parts of the river are indicated upon most of the maps for a century and a half, except that the Peche, or Puche, is usually placed much higher up on Manavique or Cape Three Points. In the collection of maps gathered in connection with the boundary question there is just one exception to what has just been said with reference to the general position and the naming of the streams, and this exception is of interest, for it seems to settle any doubt that by the Peche the stream now known as Motagua was meant. This exception is to be found upon the 1699 Gage map. Here no stream bearing any form of the name Peche appears to the *east* of the Cape of Three Points, but occupying the same general position as the earlier unnamed forked river is a stream, called the Piche, which empties well to the *west* of Three Points.

Toward the middle of the eighteenth century the Peche River, so named, disappears from the maps of the best type and the forked stream to the west of Three Points is definitely given the name Guanacos. This name first appears in the Honduran collection of of maps on the 1754 Bellin map—Paris. But confusion still lingered regarding the river in the minds of some mapmakers, as is shown by the 1771 Speer map and the 1775 Jefferys. The former gives the characteristic forked stream, unnamed, emptying to the *west* of Cape

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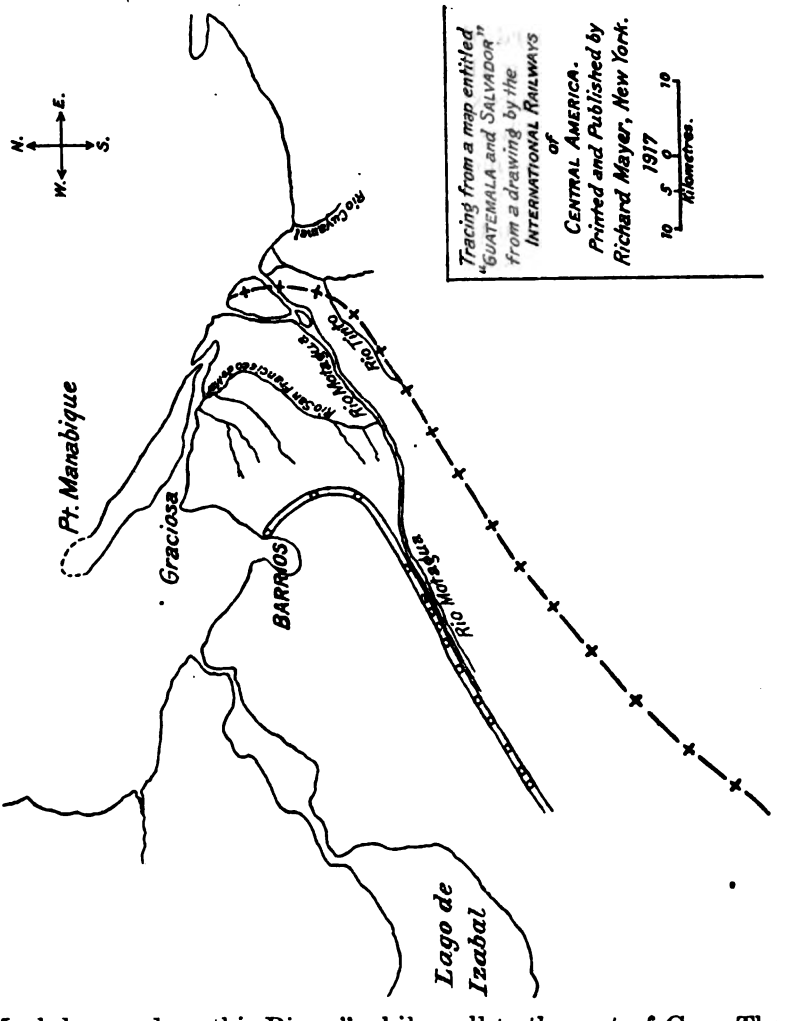
Three Points, and also high up on the cape, but to the east of the point is the mouth of a river, and the mouth only, marked "Rio Mortagua." This seems to be the first time that the present name of the river is given on the maps. The Jefferys map makes more evident the persistent confusion of the cartographers by giving the forked stream the name Rio de Guanacos, with the additional legend



"Much logwood up this River," while well to the east of Cape Three Points is a small stream marked "R. Mortagua ó Dulce."

The name Guanacos continued to be applied to the Motagua while it was represented as having its mouth in Pyrats Lagoon, but when, in the early part of the nineteenth century, the mapmakers came clearly to realize that the Motagua and the Guanacos were one and the same stream the latter name was dropped, and on the more au-

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thoritative maps the river was placed in an approximately correct positon, with mouth to the east of Three Points, and was called the Motagua. In the 1804 Anguiano plan the location is correct, in general, and the river, which is given in the accompaniyng description as the boundary—and so represented on the map—is called the Motagua. But beginning with the 1826 Arrowsmith, the combination of the old ideas regarding the Peche and the early unnamed forked stream is more evident. And this map, and also others published for some years after it, represent the boundary line of the Republic of Honduras at the west as crossing the Motagua and terminating at Graciosa or Pyrats Lagoon, a vestige of the old view that the Motagua—which was the boundary of the province—formerly emptied to the west of Cape Three Points.

The question finally arises as to whether during the period covered by the maps presented as evidence in the boundary question, the Motagua ever emptied directly into Pyrats Lagoon, as the "Guanacos" is so often represented as doing. The answer seems to be supplied by the position of the Peche River. With but the one exception above mentioned, this stream, from the 1529 Ribero map on, is regularly made to debouch to the east of Three Points. If the Peche was identical with the Motagua, the answer is evident.

MARY W. WILLIAMS.

[Translation.]

INDEX OF THE PLEADINGS AND EVIDENCE IN SUPPORT OF THE CLAIM OF HONDURAS IN THE BOUNDARY QUESTION WITH GUATEMALA.

Pleadings.—Memorandum of the representative of Honduras, May 24, 1918. Amplification of the preceding memorandum, May 30, 1918. Replica of the representative of Honduras, June 22, 1918. Duplica of the representative of Honduras, June 29, 1918. Amplification of the preceding duplica, August 27, 1918.

EVIDENCE OF HONDURAS SOVEREIGNTY WEST OF THE MOTAGUA RIVER.

Documents submitted.

1529. HONDURAS BORDERS ON YUCATAN.—Letter of Adelantado Montejo to the King of Spain—Exhibit XIII, No. 14.

1536–1539. GUATEMALA HAS NO COAST ON THE ATLANTIC.—Letter of Don Pedro de Alvarado to the King—page 8, Exhibit III, Honduras Replica.[1]

1536 (*a*). SAN GIL DE BUENAVISTA INCLUDED IN THE ALLOTMENT OF TOWNS BY PEDRO DE ALVARADO—page 9, Honduras Replica.

1537. GUATEMALA HAS NO COAST ON THE ATLANTIC.—Letter of Geronimo San Martin to the King. Submitted by the representative of Guatemala, cited at page 8 of the Honduras Replica.

1540–1601. GUATEMALA HAS NO COAST ON THE ATLANTIC.—"Demarcation and Division of the Indies"—Description of the Province of Honduras, which first appeared anonymously and later was adopted by Antonio de Herrera, chronicler of Spain and the Indies, page 16, Honduras Duplica.

[1] Pages cited refer to the Spanish text of the original memoranda filed with the Mediator.

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1563. SAN GIL DE BUENAVISTA.—Royal rescript dividing the territory of the Audiencias of Guatemala and Panama—pages 17 and 18, Honduras Replica.

1564. SAN GIL DE BUENAVISTA.—Royal rescript revoking that of 1563, which transferred to the Governancy of Guatemala the District of San Gil, thereby leaving the two Provinces with the same boundaries which they had the year previous—pages 18 and 19, Honduras Replica.

1582. AMATIQUE AND YAMA.—List of the towns in Honduras—page 10, Honduras Replica.

1606 (*d*). SAN TOMÁS DE CASTILLA OR AMATIQUE.—Letter of the Council of Trujillo to the King, showing that said place belongs to Honduras—page 10, Honduras Replica.

1608 (*e*). SANTO TOMÁS DE CASTILLA.—Letter of Governor Juan de Guerra y Ayala to His Majesty, showing that said place belongs to Honduras—page 11, Honduras Replica.

1693. GOLFO DULCE IN THE BISHOPRIC OF HONDURAS.—Exhibit XV, amplification of the Honduras Duplica.

1714. GOLFO DULCE.—Royal rescript showing that Omoa belongs to the Province of Honduras and that the Gulf borders thereon—page 14, amplification of the Honduras Duplica.

1723. (*h*). CASTILLO DEL GOLFO DULCE.—Don José Rodezno reports to the King that said Golfo belongs to the Province of Honduras—amplified in No. 6 of Exhibit XXV.

1728 (*i*). GOLFO DE AMATIQUE.—"Description of the North Coast of the Kingdom of Guatemala" by Pedro Rivera Marquez—He asserts that the North coast as far as the Bay of Trujillo belongs to the Government of Honduras—page 12, Honduras Replica, Exhibit VI.

1745. HONDURAS BORDERS ON YUCATAN.—Royal rescript appointing Don Juan de Vera Governor and Military Commander of Honduras, Exhibit VIII—The validity of this rescript as conclusive on the boundaries is declared in the award of the King of Spain in the Nicaragua-Honduras boundary dispute as set forth in the finding copied at page 16 of the Honduras Duplica.

1752 (*j*). GOLFO DULCE AND SANTO TOMÁS DE CASTILLA.—Report and data regarding the coast of Honduras by Ignacio Saint Just—pages 12 and 13 of Honduras Replica—He treats said Golfo as in the coast of Honduras in front of the Honduras or Motagua River.

1747. INSTRUCTIONS OF THE KING TO THE CAPTAIN GENERAL OF GUATEMALA, DON FRANCISCO CAGIGAL DE LA VEGA, WHICH CONFIRM POWERS CONFERRED UPON THE GOVERNOR OF HONDURAS, DON JUAN DE VERA BY MAKING HIM IN MILITARY MATTERS SUBORDINATE TO THE FORMER OFFICIAL.—Exhibit XXIV.

1815 (*q*). PENINSULA MANABIQUE.—Plan submitted by the Governor Intendente of Honduras, Don Juan Antonio Formas, which includes said Peninsula within Honduras—Honduras Replica.

1859. ACQUISITION OF BELIZE BY GREAT BRITAIN.—Treaties with His Britannic Majesty's Government—Exhibit XIV.

Motagua River.

1744. THE MOTAGUA IS A HONDURAS RIVER.—Description of the north coast of the Kingdom of Guatemala by Engineer Luis Diez de Navarro—This extract is amplified in Exhibit XXV, No. 4.

1752. THE MOTAGUA IN HONDURAS.—Order issued by the Governor of the Province of Honduras for the payment of the cost of construction of a vessel in the Motagua River—Honduras National Archives—Exhibit XXV, No. 6.

1844. THE MOTAGUA CLAIMED AS A BOUNDARY BY GUATEMALA.—Instructions drawn by Larreinaga and Marure, specially commissioned by the Government of Guatemala for the use of the latter's representative at the Boundary Confer-

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ences to be held with Honduras, published in "La Semana," Guatemala preceded by the editorial paragraph cited in the section entitled "Documents Presented or Amplified—Exhibit XXV"—Exhibit XVII (*a*).

DOCUMENTS PRESENTED OR AMPLIFIED—EXHIBIT XXV—TO THE WEST.

1620. SANTO TOMÁS IN HONDURAS.—Pedro de Agurcia, paid 740 tostones to the pilots who conducted the ships recently arrived from Castile from Trujillo to Santo Tomás—National Archives of Honduras—No. 2 of this exhibit.

1722–1723 (*h*). GOLFO DULCE OF HONDURAS—Amplified extract of the report of Oidor (Judge of the Audiencia) Don Jose Rodezno, giving an account to His Majesty and enclosing the original records under the Commission issued to him by the Audiencia of Guatemala relative to the proceedings which he conducted in the Province of Honduras against the universities and individuals engaged in smuggling and his recommendations for preventing this in the future by the erection of a fortress at Port Omoa in said Province—He states that Castillo del Golfo of Honduras should be razed—General Archives of the Indies, 65–4–3–No. 3 of this exhibit.

1748. GOLFO DULCE BELONGS TO HONDURAS—Letter from Antonio del Castillo addressed to Don Pedro Truco, Lieutenant Governor of Honduras, showing that the latter exercised jurisdiction in Castillo del Golfo—National Archives of Honduras—No. 5 of this exhibit.

1800–1802. GOLFO DULCE IN HONDURAS—Data relating to the Kingdom of Guatemala taken from the General Archives of the Indies, showing that Golfo was in Honduras—No. 16 of this exhibit.

1864. CANAL CONNECTING THE MOTAGUA RIVER AND THE GRACIOSA BAY—Agreement between Don Leon Alvarado, Commissioner of the Government of Honduras, and Mr. Jean A. de Brame, representing the Guatemala Company—This is the same document referred to in No. 7 of Exhibit XVII (*b*)—National Archives of Honduras—No. 28 of this exhibit.

Maps.

1527–1854. Ten maps giving the boundary of Honduras up to Yucatan.

1597–1834. Fifteen maps which give the boundary of Honduras up to Golfo Dulce or River Dulce.

1656–1849. Forty-one maps which give the boundary of Honduras to the West of Point Manabique.

1804–1900. Eight maps which give the boundary of Honduras up to the Motagua River.

Evidence of the sovereignty of Honduras to the West of the Motagua in the districts comprised in the latest claim of Guatemala.

1545. GRACIAS A DIOS—Alonzo de Maldonado, President of the Audiencia of Los Confines, writes to the King—Exhibit XIII, No. 32.

1573. SAN PEDRO SULA—Dr. Villalobos, President of the Royal Audiencia of Guatemala, writes to the King—Exhibit XXII.

1582. GRACIAS A DIOS, TENCOA, QUESAILICA, SAN PEDRO SULA, OCOTEPEQUE, CAMASCA, COPAN, CHAPULCO AND MASCA—List of the towns of Honduras—page 10, Honduras Replica.

1583. PUERTO CABALLOS—The City of Valladolid (Comayagua) requests that this port be not transferred to Manabique—page 10, Honduras Replica.

1636. TEGUCIGALPA AND SANTO TOMÁS DE CASTILLO—In the report of Juan Diez de la Calle it is shown that the President of the Audiencia of Guatemala

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appointed Alcaldes for various mining districts in Tegucigalpa, Province of Honduras, and similar offices at Santo Tomás de Castilla in the same Province—Exhibit XXIII.

1684 (*f*). GRACIAS A DIOS, SAN PEDRO SULA, PUERTO DE CABALLOS—Original records transmitted to the King by the Royal Audiencia, relative to the collection of certain Royal fines—page 11, Honduras Replica. Masca in the jurisdiction of San Pedro Sula. The report states that if this place is distinct from the San Pedro Masca of the District of Amatique it should pay taxes, but if it is the same one it should not.

1685 (*g*). PUERTO CABALLOS AND OMOA—Report of Ex-Captain General of Guatemala, Don Lope de Sierra Osorio, transmitted to His Majesty. In it he states that these two places are in the Province of Honduras—page 11, Honduras Replica.

1720. MAP EXPLAINING THE ROYAL RESCRIPT OF 1564—page 12—Amplification of Honduras Duplica, Exhibit XVIII.

1723 (*h*). OMOA—Oidor Don José Rodenzo reports to the King regarding the commission which he executed in behalf of the Audiencia of Guatemala in the Province of Honduras and recommending the establishment of a fortress at said port and the suppression of the fortress at Golfo—page 12, Honduras Replica.

1770 (*e*). CUYAMEL—Royal rescript addressed to the President of the Audiencia of Guatemala approving the orders which he issued on his visit to the Port of Omoa, the latter being in his jurisdiction—page 13, Honduras Replica (Exhibit VII).

1772 (*l*). GRACIAS A DIOS, SAN PEDRO AND TENCOA—State of the Province and District of the Kingdom of Guatemala—In Comayagua he lists those above mentioned and others which are included in the most recent claim of Guatemala—page 13, Honduras Replica.

1779 (*m*). GRACIAS A DIOS, SAN PEDRO AND OTHER PLACES—List of the gold and silver mines in the Kingdom of Guatemala—In the Province of Comayagua there are included Gracias a Dios, San Pedro Sula—page 14, Honduras Replica.

1782. ROAD FROM SAN ANTONIO DEL DESCANSO TO CAMOTAN—Concession granted by the Captain General of the Kingdom of Guatemala, Don Matias de Galvez, to Domingo Claros for a road between these places specifically including therein the entrances and exits to the Grita, Gallinero or Espiritu Santo Mountain—Exhibit XIX.

1784. THE DIOCESE OF GUATEMALA NEVER COMPRISED TOWNS IN HONDURAS—Description of the Diocese of Guatemala which does not include towns in Honduras which Guatemala now claims, excepting Copan—Honduras Replica, page 11.

1801 (*o*). JURISDICTION OF THE INTENDENCIA OF COMAYAGUA—General Statement of the Indian and half-breed villages of the Intendencia of Comayagua, according to which said Intendencia owned the territory in the departments of Honduras, which Guatemala now claims—Honduras replica, page 15.

1804 (*p*). GRACIAS A DIOS, SAN PEDRO, TENCOA, AND OTHER PLACES—Report of Ramon de Anguiano, Governor of Honduras relative to his visit in said province, certifying that said places were within his jurisdiction—Honduras Replica, page 1—Amplification of this extract can be found at No. 17 of Exhibit XXV.

1818. OMOA.—Royal rescript addressed to the Governor and Captain General of Guatemala notifying him that said port shall forthwith return to the Government of Comayagua in the same manner in which it had been prior to its annexation to Guatemala—Exhibit XII.

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1834. COPAN AND CAPARJA.—Note from Juan Galindo, commissioned by the Federal Government of Central America to study the boundary lines—Exhibit XIII, No. 25.

1825–1851. LAWS OF GUATEMALA WHICH DID NOT INCLUDE THEREIN HONDURAS TOWNS.—Exhibits XXI.

DOCUMENTS PRESENTED OR AMPLIFIED—EXHIBIT XXV—TO THE EAST OF THE MOTAGUA.

1581. THE PROVINCE OF HONDURAS AS A UNIT.—Letters and records of the secular councils of Leon Nicaragua, San Salvador, and Comayagua—Mines discovered—The Alcaldia of Tegucigalpa, which was created at a later date, was independent of the governancy of Comayagua, but in military and fiscal matters it continued to form an integral part of Honduras until it was again consolidated therewith after the establishment of the Intendencia—No. 1 of this exhibit.

1722–1723. OMOA.—Amplification of the extract of the report of Oidor No. 3 of this exhibit.

1769. APPOINTMENT OF THE GOVERNOR OF HONDURAS.—Commission issued to Bartolome Perez de Quijano—Archives of the Indies 100–3–2, No. 7 of this exhibit.

1777. LINGUISTIC FRONTIER.—Petition of the priest of the village of San Sebastian annexed to Ocotepeque in the Province of Honduras, to the President of the Audiencia of Guatemala, and decision rendered thereon in which it is shown that the Indians of Jocotan, Camotan, and San Juan de la Hermita, dwelling in said village, speak only the native language, and that there was no one to interpret to them—National archives of Honduras, No. 8 of this exhibit.

1779. OCOTEPEQUE.—Instrument relating to a religious charge of the estate of Santa Ana in the district of Ocotepeque, Bishopric of Comayagua—National archives of Honduras, No. 9 of this exhibit.

1784. SAN ANTONIO DEL DESCANSO AND JIGUA.—Consultation addressed to the Captain General of the Kingdom of Guatemala and decision rendered thereon by him that the Governor of said villages was subject to the jurisdiction of the Lieutenant at Quesailica appointed by the Lieutenant of Gracias, Province of Comayagua—National Archives of Honduras, No. 10 of this exhibit.

1787–1789. APPOINTMENT OF THE GOVERNOR OF HONDURAS.—Commission issued by the King to Alejandro Garcia Conde as Governor-Intendente of Comayagua and Commandant General of the Military forces of the Province of Honduras—National archives of Honduras, No. 11 of this exhibit.

1787–1823. GRACIAS A DIOS, CUCUYAGUA, PETOA, AND QUESAILICA.—File of ecclesiastical documents showing that the Bishop of Comayagua exercised jurisdiction in said parishes, and that this was recognized by the ecclesiasts of the Archbishopric of Guatemala. The ecclesiastical archives of the Bishopric of Comayagua, No. 20 of this exhibit.

1788. INTIBUCA.—Appointment of a priest for said village in the Bishopric of Comayagua made by the Captain General of Guatemala in his Majesty's name—National archives of Honduras, No. 12 of this exhibit.

1791. JURISDICTION OF THE INTENDENCIA AND BISHOPRIC OF HONDURAS OVER THE SAME TERRITORY.—Amplified extract from the report of the Bishop of Comayagua showing which of the towns now claimed by Guatemala were included in said Bishopric and the royal rescript showing that the bishopric and governancy had the same territorial jurisdiction—General archives of the Indies, 101–1–9, No. 13 of this exhibit.

1793. OCOTEPEQUE AS THE MEETING POINT OF THE THREE PROVINCES.—Extract from the complaint filed by Captain Figueroa to the audiencia of Guatemala against the vices and disorders which occurred at Ocotepeque, due to this town

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being on the border of the three Provinces—National Archives of Honduras, No. 14 of this exhibit.

1797–1798. SAN ANTONIO DEL DESCANSO.—Petition of the residents of said village in the jurisdiction of Comayagua to the Captain General of Guatemala and decision of the latter that there be issued to them a certified copy of the record relative to the proceedings had upon the creation of said village—National archives of Honduras, No. 15 of this exhibit.

1804. The COPAN VALLEY.—Amplified extract from the report of Ramon de Anguiano, Governor of Honduras, addressed to the King, showing that the Honduran towns included in the most recent claim of Guatemala, especially the Valley of Copan, belonged to the Province of Honduras—General archives of the Indies, 100–3–11, No. 17 of this exhibit.

1811. APPOINTMENT OF THE INTENDENT.—Commission issued by the King to Juan Antonio Tornos y Gagigal as Political and Military Governor of Comayagua—No. 18 of this exhibit.

1820. SAN ANDRES IN THE BISHOPRIC OF HONDURAS.—Record of matrimonial proceedings of U. H. Resident of said place.—Ecclesiastical archives of Comayagua, No. 19 of this exhibit.

1822. CUYAMEL.—Deed of purchase and sale of property situate at Cuyamel in the jurisdiction of Omoa—National archives of Honduras, No. 20 of this exhibit.

1840. OMOA AND MOTAGUA.—A note addressed by the collector of Omoa to the Supreme Chief of the State of Honduras relative to the claim of the Collector of Izabal to collect duties on merchandise brought in by the Motagua River, the mouth of which is in Honduras—National archives of Honduras, No. 21 (certification).

1844. GUATEMALA CLAIMS THE MOTAGUA RIVER AS THE BOUNDARY.—Editorial paragraph of "La Semana" of Guatemala, followed by the instructions drawn by Larreinaga and Marure, commissioned by the Government of Guatemala for the use of latter's representative at the Boundary Conferences with Honduras—No. 22 of this exhibit.

1851. THE DIVIDING LINE BETWEEN THE TWO STATES.—Note of the Commandant of Jocotan to the Second Municipal Mayor of Copan transmitting the accused G. C. from the Corregimiento of the Department of Chiquimula to the State of Honduras—No. 23 of this exhibit.

1857. THE FRONTIER NEAR COPAN.—Note of Rafael Juarez of the District of Esquipulas (Guatemala) to the First Municipal Mayor of Copan, stating that the farm called Coyoles is in the jurisdiction of the latter and requesting the apprehension of E. R. and his transmission to the boundary line—National archives of Honduras—No. 24 of this exhibit.

1857. THE DIVIDING LINE BETWEEN THE TWO STATES.—Note of Vicente Cerna, Governor and Commandant General of Chiquimula, addressed to the Second Mayor of Copan acknowledging receipt of an official note and that the dividing line is in the vicinity—National archives of Honduras—No. 25 of this exhibit.

1857. ESTANZUELA.—Note from the Municipal Court of the Town of Esquipulas (Guatemala) to the First and Second Mayors of Cachapa, acknowledging that said place belongs to the State of Honduras—National archives of Honduras—No. 26 of this exhibit.

1858. TIGRE MOUNTAIN.—Note from Leandro Godoy, commandant of the District of the town of Esquipulas to the Municipal Mayor at Copan, acknowledging that said mountain is within the jurisdiction of the State of Honduras—National archives of Honduras—No. 27 of this exhibit.

1865. EL PLAYON.—The Archbishop of Guatemala, in a letter addressed to the Bishop of Comayagua, Fr. Juan de Jesús Zepeda, acknowledges that said

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village is a parish of Sensenti in the jurisdiction of said Bishopric—Ecclesiastical archives of Comayagua—No. 29 of this exhibit.

1866. LLANO DEL MORRO.—Note from the Court of Camotan to the Mayor of Cachapa, acknowledging that said place has been considered since time immemorial as situate on the dividing line between the two states—National archives of Honduras—No. 30 of this exhibit.

1866. JUTES.—The acting Mayor of Copan, writing from Cachapa (Honduras) notifies the local Commandant of Jocotan (Guatemala) of the invasion of Cordoncillo by the Guatemalan Sergeant named Sagastume—Reply of the Commandant disapproving the action of the invader—Note from the same Commandant containing an official communication from the Mayor of Comotan, in which the latter advises that at the request of the Mayor of Cachapa, one Ines Sanchez has suspended his agricultural work in a wood belonging to Jute (Honduras)—Two notes from the acting Mayor of Copan to the Commandant of Jocotan relative to the same matter—National archives of Honduras—No. 31 of this exhibit.

1867. ESTANZUELA.—Note from the Archbishop of Guatemala to the Bishop of Comayagua acknowledging the jurisdiction of the latter in the aforesaid village—Ecclesiastical archives of Comayagua—No. 32 of this exhibit.

1869. PLAYON.—Note from the Archbishop of Guatemala to the Bishop of Comayagua acknowledging that said village is in the jurisdiction of Sensenti in said Bishopric—Ecclesiastical archives of Honduras—No. 33 of this exhibit.

1880. IZOTES MOUNTAIN.—Marcos Pinto, Municipal Mayor of Concepción, requests the collector of revenue of Copan that said mountain be surveyed in favor of the said village and record of proceedings had thereunder at Ocotepeque by the Second Justice of the Peace—National archives of Honduras—No. 34 of this exhibit.

1880. THE FRONTIER NEAR IZOTES.—Note from J. Rufino Barrios, President of Guatemala, to Surveyor Juan B. Collart, acknowledging that the dividing lines is in the Izotes land near Esquipulas (Guatemala)—National archives of Honduras—No. 35 of this exhibit.

1889. NATURAL FRONTIER.—Report of surveyor Carlos Madrid to the Collector of Revenues of Copan in which he maintains that the Piedras Coloradas River is suitable for a boundary line between Guatemala and Honduras—National archives of Honduras—No. 36 of this exhibit.

Gulf of Fonseca and frontier with Salvador.

1772 (*l*). CHOLUTECA AND NACAOME.—Report cited at page 13 of the Honduras Replica.

1779 (*m*). LANGUE, CURAREN, AND REITOCA.—Account of the silver and gold mines in the Kingdom of Guatemala—Between Tegucigalpa and the District of San Miguel (El Salvador) Conchagua is given as the boundary. (Gulf of Fonseca) page 14, letter *m*, Honduras Replica.

1801 (*o*). GRACIAS A DIOS, TENCOA, AND SAN PEDRO SULA.—Report of the visit of the Governor of Honduras, Honduras Replica, page 15—The report states that Goascoran, Nacaome, and Choluteca are also in the Province of Honduras.

1839. TREATY OF HONDURAS.—Compilation of the laws of Guatemala—Treaty between Honduras and Guatemala which treats of Honduras and El Salvador as bordering on each other, this being in conflict with Guatemala's claim. Treaty between Honduras and Guatemala which treats of Santa Rosa de Copan as in the jurisdiction of Honduras—Amplication of the Honduras duplica, page 16.

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HISTORICAL AND GEOGRAPHICAL CITATIONS.

ALVARADO, GONZALEZ DAVILA & MONTEJO—Ex. XIII.

Antonio de Herrera, Nos. 1 & 8.—Antonio de Remesal, No. 2.—Jose Fernando Ramirez, No. 3.—Rafael Aguirre Cinto, No. 4.—Santiago I. Barberena, No. 5.—Claudio Urrutia, Nos. 6 & 12.—Bernal Dias del Castillo, No. 7.—Pablo Levy, No. 9.—Tomas Ayon, No. 10.—Miguel Gonzalez Saravia, No. 11.—Juarros, No. 13.—Francisco de Montejo, No. 14.

AMATIQUE—Ex. XIII.

Antonio de Herrera, No. 15.—Juarros, No. 16.—Urrutia Claudio, Nos. 17 & 18.—Antonio de Alcedo, No. 20.

SAN GIL DE BUNAVISTA.—Jose Milla & Domingo Juarros, p. 6, par. 30. No. 1, Honduras Replica, & 19 of Ex. XIII.—Zaragoza, "Recordacion Florida," p. 6, par. 3, No. 2 of Honduras Replica.

COPAN.—Jose Milla & Domingo Juarros, pp. 8 & 15, No. 5 Honduras Replica, letter R.—Ex. XIII: Diego Garcia del Palacio, No. 21.—Juarros, No. 22.—Pineda Montt, "Coleccion de Leyes de Guatemala," No. 23.—John L. Stephens, No. 24.—J. W. Bedden Whetham, No. 26.—Milla, No. 27.—Augustin Gomez Carillo, No. 28.—Claudio Urrutia, No. 29—Humboldt, No. 47.

GRACIAS A DIOS, TENCOA, SAN PEDRO SULA, & PUERTO CABALLOS.—Bartolome de las Casas, Ex. XIII, No. 31.—Alonso de Maldonado, No. 32.—Manuel Maria de Peralta, No. 33.—Juan Lopez de Velasco, No. 34.—Pedro Ortiz, No. 35.—Fray Alonso de Ponce, No. 36.—Juan de Pineda, No. 37.—Antonio de Herrera, No. 38.—Juan Diez de la Calle, No. 39.—Tomas Gage, No. 40.—Agustin Gomez Carillo, Nos. 41 & 42.—Matias de Galvez, Capitan General de Guatemala, No. 44.—Antonio de Alcedo, No. 45.—Juarros, No. 46.—Humboldt, No. 47.—Antonio de Larrazabal, No. 48.—Justo Zaragoza, No. 49.—Claudio Urrutia, No. 50.

ANNEXATION TO THE EMPIRE OF ITURBIDE.—Pineda Montt, "Recopilacion de las Leyes de Guatemala," Ex. XIII, No. 51.—Claudio Urrutia, No. 52.

JUARROS, THE MOST AUTHORITATIVE ANCIENT HISTORIAN OF GUATEMALA.—Ex. XVI. Jose Mariano Beristain de Souza, No. 1.—Fr. Jose Antonio Liendo de Goicoechea, No. 2.—Tomas Ayon, No. 3.—Claudio Urrutia, No. 4.—Jorge Munoz & Ramon A. Salazar, Ministers of Foreign Affairs of Guatemala, Nos. 5 & 5, respectively.—Bancroft, Ex. X.—Jose Mariano Mendez, Ex. XI.—Humboldt, John L. Stephens, Leon Fernandez, Manuel Maria de Peralta, Santiago I. Barberena, Jose Milla & Agustin Gomez Carrillo, No. 7.—Amplification of the Honduras Replica, p. 10.

THE MOTAGUA IS A HONDURAS RIVER.—Ex. XVII (*b*). Antonio de Alcedo, No. 3.—Juarros, No. 4.—Pedro de Rivera, Captain General of Guatemala, No. 5.—"Memoria Estadistica del Estado de Guatemala," published in Brussels in 1840, No. 6.—Zaragoza, "Recordacion Florida," No. 8.

HONDURAS BORDERED ON YUCATAN.—Zaragoza, Ex. I.—Jose Milla. Ex II.—Torres de Mendoza, Ex. III.—Antonio de Herrera, Ex. IV & No. 15 of Ex. XIII.—Honduras Replica, p. 8, par. 3, No. 4 & Ex. XIII, No. 38.—Fray Diego de Landa & Juan Francisco Molina Solis, Amplification of the Honduras Replica, pp. 19 & 20.—Antonio de Alcedo, Ex. XIII, No. 45.—Bartolome de las Casas, Ex. XIII, No. 31.

GULF OF FONSECA IN HONDURAS.—Juarros, pp. 15 & 22 of the Honduras Replica.

CAUSES FOR THE TRANSFER OF THE ROYAL AUDENCIA OF GUATEMALA TO PANAMA.—Juarros, pp. 20 & 21, Honduras Replica.

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LAND TITLES.

Those comprised in Volume III, submitted in evidence with its special index. These titles establish the sovereignty of Honduras on those lands situate within the boundary line which it claims.

A printed volume (collection of treaties in force in Honduras) containing the boundary convention of 1895 and the minutes of the work done by the Boundary Commission on the frontier from 1908 to 1910.

Two printed volumes containing the annual reports of the Ministry of Foreign Relations of Honduras for the years 1915 and 1917 which include the boundary convention of 1914 and the minutes of the works of the Boundary Commission on the frontier in 1916.

Index of the points of special interest contained in the minutes of the works of the Boundary Commissions on the frontier.

List of municipalities and their respective villages situate between the lines claimed by Guatemala and Honduras at the conferences of 1908 to 1910.

Alphabetical list of the authorities cited and place where their works can be found.

The original documents or duly certified copies thereof from which the extracts submitted in evidence were taken are at the disposal of the Mediator, in order that they may be compared whenever deemed necessary or advisable by the other High Party.

In order to complete this work I desire to make some passing remarks respecting the documents submitted by the representative of Guatemala in his explanatory index dated September 23 last.

DOCUMENTS WHICH SERVE AS ANTECEDENTS.

(*a*) Royal rescript appointing Pedro de Alvarado as Governor of Guatemala and Yucatan.—This document is of no value and has no bearing on the question because it is a matter of record that subsequent to 1527, the date thereof, the Province of Yucatan was segregated therefrom and governed by Montejo as bordering on Honduras.

(*b*) Letter of Adelantado Montejo.—This proves nothing, as it merely relates the desire which Alonso de Maldonado had in 1537, then Visitador (inspector) of the Kingdom, in which desire the latter did not persist; and is further nullified by the fact that the latter went to preside over the Audiencia of Los Confines at Gracias a Dios as in Honduras, and also by the letter of the said Maldonado to the King in 1545, in which he recognizes that Gracias was in the latter Province.

CONFIRMATORY DOCUMENTS.

(*a* and *b*) Royal rescripts relating to Castillo (fortress) del Golfo Dulce.—This only goes to prove that the President of the Audiencia supplied it with necessaries, but not that it belonged to the Province of Guatemala. Besides, this allegation is contradicted by the documents relative to said Golfo which have been submitted in evidence.

(*c*) Letter of the Bishop of Guatemala, dated Nov. 30, 1676.—This letter relative to the annexation of the Guardiania of Nacaome to the Bishopric of Comayagua would at the most prove that in that year the annexation was not actually effected, but this can not destroy the fact attested to by Juarros and confirmed by documents, and continuously in effect to this day, that the whole of the old District of Choluteca has been in the Bishopric of Honduras for the past centuries.

(*d* and *e*) Ecclesiastical documents.—At most these documents would serve to show that the Copan Valley as related by Juarros may have been temporarily under the jurisdiction of the priest at Jocotan in the Archbishopric of Guate-

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mala; but this can not prevail against the evidence of all the land titles, reports of Governors, and statements of historians, geographers, and learned travelers who have recognized said Valley to be in Honduras.

DOCUMENTS WITH WHICH IT IS INTENDED TO DESTROY THE CLAIM OF HONDURAS.

(*a* and *b*) Commission to Juan de Vera as Governor of Honduras, and Royal Order of January 2, 1747.—These are the same documents cited by Honduras in support of its contention, and it is only in the interpretation thereof against its literal meaning that the representative of Guatemala cites it on his own behalf.

(*c*) Letter of the President (of the Audiencia) of Guatemala relative to the issuance of title deeds to lands in Trujillo.—I have already stated that all of the titles for the Provinces of the Kingdom were issued by the Captain General in the King's name, but said title deeds recited to what Provinces the land belonged; and the direct military dependency of Trujillo on the Captain-General ceased at the beginning of the nineteenth century as is provided by the record of the proceedings had on the application of José Santiago Milla, a deputy, to the Cortes (Spanish Parliament) in 1814.

(*d*) Report of the Sinodal Constitution Solicitor of the municipality of Comayagua, dated October 16, 1820.—At the most this would show the ignorance of the Sinod of Comayagua regarding the geography of his country, but it does not touch upon the question in dispute.

In consequence, Guatemala's documentary evidence is reduced to the royal rescript of 1563 which, it has been shown, gives her no right to the territory which she claims, and furthermore Guatemala has not combated, much less disproved with other documents, the numerous weighty documents which Honduras has submitted in support of its right to the territory extending as far as the boundary of Belize.

INDEX OF THE POINTS OF SPECIAL INTEREST CONTAINED IN THE MINUTES OF THE WORKS OF THE BOUNDARY COMMISSION ON THE FRONTIER.

(1) Cerro Brujo as the common boundary point of the Republics of Honduras, Guatemala, and El Salvador.—Minutes 5 and 6, pages 157 and 161.

(2) Cerro Obscuro as the boundary point between Honduras and Guatemala.—Minutes 17, page 220.

(3) The present possession line as recognized by the Honduran and Guatemalan engineers from Cerro Brujo to Caparja parallel with the ruins of Copan as set forth in minutes 14, pages 148 to 186.

(4) Guatemala claimed the summit of the Merendon as the boundary line merely as a natural boundary, based on no documents whatever and totally disregarding all of the evidence submitted by Honduras. The most advanced line which appears from the evidence presented by Guatemala is from the limits of the farm Remudadero y Pozas or from Cerro Obscuro to Brea de Copan; and even this is based only on the testimony of Guatemalan witnesses examined in Guatemala, minutes 16, page 206, and 17, page 227.

(5) Honduras had possession of the territory up to Izabal, but around 1863 Guatemala took possession thereof by force of arms, forcibly removing the authorities which the former had there.—Session of March 17th, 1916, as shown in the amplification of the Honduras duplica, page 27.

(6) The Honduran engineers were unable to complete their study of the western side of the Motagua because they were prevented from so doing by the Government of Guatemala.—Minutes 20 of July, 1910, and another of 1916.

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List of the Municipalities and their Respective Villages Situate between the Lines Claimed by Guatemala and Honduras at the Conferences of 1908 to 1910.

First Section.

(From Cerro Brujo to La Brea.)

1. Amatal.....Village.
2. Barbasco..... "
3. Canoas..... "
4. Chaguiton..... "
5. Chuctal..... "
6. Floripundio..... "
7. Granadillas..... "
8. Machuca..... "
9. Obrage..... "
10. Pinuelas..... "
11. Potrero..... "
12. Queseras..... "
13. San Cayetano..... "
14. Santa Anita..... "
15. Sunete..... "
16. Tablon..... "
17. Tecomapa..... "

These villages belong to the municipalities of Concepción and Santa Fe, in the jurisdiction of the Department of Ocotepeque.

Second Section.

(From La Brea to Copan.)

18. Barbasqueadero.....Village.
19. Boca del Monte..... "
20. Brea..... "
21. Bueceibon..... "
22. Buena Vista..... "
23. CABANAS o SANTA BARBARA..Municipality.
24. Camalotillo.....Village.
25. Capucal..... "
26. Casita..... "
27. Carrizal..... " possessed by Guatemala.
28. Chanmagua..... " possessed by Guatemala.
29. Chichicaste..... "
30. Chilar..... " possessed by Guatemala.
31. Coyoles..... "
32. Cuestona..... "
33. Danto..... "
34. Desmontes..... "
35. ENCARNACION o PLAYON.....Municipality.
36. Esperanza.....Village.
37. Estanzuela..... "
38. Flores..... "
39. Guineal..... "
40. Hornillos..... "
41. Hornos..... " possessed by Guatemala.

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42.	Jaral	Village.	
43.	Juntas	"	
44.	Las Lagrimas	"	
45.	Las Lagunas	"	
46.	La Libertad	"	
47.	Leonera	"	
48.	Malsinoa	"	possessed by Guatemala.
49.	Manzano	"	
50.	Mirasol	"	
51.	Monte de los Negros	"	
52.	Monteros (at present Union)	"	possessed by Guatemala.
53.	Morro	"	possessed by Guatemala.
54.	Pena Blanca	"	
55.	Planes	"	
56.	Pueblo Viejo	"	
57.	Rio Negro	"	
58.	San Francisco	"	
59.	SAN JORGE	Municipality.	
60.	Sesemiles	Village.	
61.	Socorro	"	
62.	Tablon	"	
63.	Tamagas	"	
64.	Vega Vieja	"	

Third Section.

(From Copan to the Sea.)

65.	Agua Buena	Village.	
66.	Agua Caliente	"	
67.	Agua Helada	"	
68.	Achiotes	"	
69.	Anisillo	"	
70.	Arcos	"	in Copan.
71.	Barranco	"	
72.	Belem (formerly Zapotes)	"	
73.	Buena Vista	"	
74.	Canas	"	
75.	Caparja	"	on the boundary line.
76.	Chachahuallilla	"	
77.	Chapulco	"	
78.	Chorro	"	
79.	Cisne	"	in Paraiso.
80.	Cinchado	"	
81.	Colon	"	in Paraiso.
82.	Copan (Ruins of)	"	
83.	COPAN	Municipality.	
84.	Cordoncillo	Village.	
85.	Corinto (formerly Tepemechin)	"	possessed by Guatemala.
86.	Cortes (formerly Chonco)	"	possessed by Guatemala.
87.	CUYAMEL	"	
88.	Desmontes	"	in Paraiso.
89.	Guapinol	"	
90.	Hacienda Grande	"	in Copan.

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91. Jubuco.....Village.
92. Lancetillal..... "
93. Los Lobos..... "
94. Managua..... " in Paraiso.
95. Marquesa..... "
96. Masca..... "
97. Mecatal..... "
98. Mestizo..... "
99. Moral..... "
100. Morrito..... "
101. Novedad..... " in Paraiso.
102. Palmichal..... "
103. Palmira (formerly Lagartos)..... " possessed by Guatemala.
104. PARAISO.....Village.
105. Piedras Gordas.....Municipality.
106. Piedra Pintada..... "
107. Quebracho (in Copan)..... " possessed by Guatemala.
108. Quebradas..... " possessed by Guatemala.
109. Salto..... "
110. San Antonio del DESCANSO.....Municipality.
111. San Rafael (Copan).....Village.
112. Santo Cruz..... "
113. SANTA RITA o CACHAPA.....Municipality.

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INDEX OF TITLES.

The Honduras Mission submitted in evidence certain ancient title deeds and judicial records, and filed a printed volume of 265 pages containing extracts from these deeds and records. The following is a translation of the foreword to this printed volume and of the explanatory index:

FOREWORD.

This volume contains extracts from the title deeds to lands measured in the Province, State, or Republic of Honduras, situate in the immediate vicinity of the frontier line bordering on Guatemala as claimed by Honduras.

Extracts are herein made of said documents in order to show that the lands to which they refer were under the sovereignty of Honduras at the time of their respective grants; and as evidence of the fact that they continued as such even up to the period immediately preceding the date of independence of Central America. Extracts are also included herein from the docket entitled "Judicial Documents."

In general the extracts have been taken from the original documents which have been submitted, and can be compared therewith. The numbers on these documents are the file numbers of the National Archives of Honduras. Those which have been taken from other sources recite such sources.

It has not been deemed necessary to copy in all cases the record relative to the payment of the amount paid for the land when the original grant was made, or

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the approval of the proceedings had with reference to said title; but the same can be seen on the original documents, all of which are in due form.

For our purpose, it was sufficient, in dealing with the documents of the Colonial period, to show that the Sub-Delegate of Lands who measured these lands, as well as the Juez Privativo del Ramo (meaning the judge who had exclusive jurisdiction in land matters) who conducted the proceedings, and the Captain General and President of the Audiencia of the Kingdom, who ordered the issuance of the title deeds, acknowledged the said lands as being situated within the jurisdiction of Gracias, Province of Honduras.

The Captain General intervened in these proceedings as the express delegate of the King of Spain, as shown in the Royal Rescripts set out in the title deeds to San Cayetano de Sesecapa and San Nicolas or Estanzuela, and issued the title deeds in his Majesty's name throughout all the Provinces of the Kingdom.

It has been deemed advisable that this volume should include copies of Honduran title deeds which have been obtained and now are in the possession of Guatemalans, which have not been found in the National Archives of Honduras, and also of some title deeds considered as Guatemalan which were furnished by the Boundary Commissions of Guatemala at the meetings which took place on the frontier in 1847, and from 1908 to 1910. The certified copies of these documents are not complete, as, with reference to some of the lands considered as belonging to Guatemala, there is lacking the record of their having actually been measured as within the jurisdiction of that Province.

Upon examining the title deeds, it will be found that the lands to which they refer constitute a continuous chain on both sides of the frontier, and that where the land grants of one country border upon those of the other, that line marks the frontier, more clearly perhaps than ever before has been the case in other disputes of this kind had between other nations, save perhaps only in boundary disputes between States of the United States.

As a further illustration, there will be duly presented maps prepared by the engineers of the Honduran Commission, in which will be found the most complete data that may be required, as a result of the studies actually made on the frontier; and there is shown on this map, so far as it has been possible for the engineers to do so at this distance from the region, the various lots which form the chain of land titles delimiting the frontier.

Dated, Washington, D. C., October 1st, 1918.

THE HONDURAS COMMISSION.

Index of the documents contained in this volume, or which have been submitted to the Mediator.

HONDURAS TITLES.

First Section.

(From Cerro Brujo to Cerro Obscuro.)

1885—No. 366.

1.—MONTE CRISTO—Lands denounced, measured, and title issued to Ramon Morales. Bounded on the north by farm Pena Quemada; on the south by lands of Malcotal and Chucte; on the east by Chuctal; and on the west it borders on land of Guatemala at Cerro del Pelon.

1875—No. 418.

2.—PENA QUEMADA—Lands denounced, measured, and title issued to Celestino Carranza, a resident of Ocotepeque, Honduras. Bounded on the north by Granadillas; on the south, east, and west by Monte Cristo.

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1878—No. 208.

3.—GRANADILLAS—Lands denounced, measured, and title issued to Celestino Carranza, a resident of Ocotepeque, Honduras. Bounded on the north by El Comedero; on the south by Pena Quemada; on the east by Choutal and Mojanal; and on the west by land of Guatemala.

1876—No. 127.

4.—COMEDERO—Lands denounced, and measured in favor of Eleuterio Mata, resident of Ocotepeque, jurisdiction of Gracias a Dios. Bounded on the north by the Commons of the Village of Esquipulas, Guatemala; on the south by Granadilla and Mojanal; on the east by Chaguiton and Mojanal; on the west by the Commons of Esquipulas, Guatemala.

1839—No. 127.

5.—CHAGUITON—Lands bounded on the north by San Cayetano de Sesecapa; on the south by lands called Comedero and Las Hojas; on the east by the same lands called Las Hojas; on the west by Commons of Esquipulas, Guatemala.

1677—No. 511.

6.—SAN CAYETANO DE SESECAPA—Lands denounced and measured in favor of J. Melendez in 1677 and newly denounced in 1731 and title issued in 1738 to Ignacio Pineda Cabrera (according to extract, page 1.)[1]

1702.

7.—BARBASCO Y BREA (according to extract, page 6.)

1863—No. 352.

8.—MECATAL (according to extracts, page 15).

1836—No. 358.

9.—SITIO EL MEREDON (Concepcion Jute)—(according to extract, page 22).

NOTE.—These lands are situate one after another in a continuous line along the present line of possession in the First Section. Back of these on Honduran territory are the following:

1882—No. 337.

10.—MALCOTAL—Lands denounced and measured in favor of Braulio Cuestas, a resident of Ocotepeque. Bounded by farms Monte Cristo and Chucte.

1864—No. 175.

11.—CHUCTE—Lands denounced and measured and title issued to Francisco J. Carranza, a resident of Ocotepeque. Bounded by Monte Cristo and Malcotal.

1854—No. 174.

12.—CHUCTAL—Lands denounced in 1845 and title issued in 1854 to Coronado Moreira. Bounded by Monte Cristo, La Granadilla, and Mojanal.

1834—No. 736.

13.—MOJANAL—Lands denounced and measured in 1834 and title issued to Coronado Moreira. Bounded by farms La Grandilla, Comedero, and Chaguiton.

[1] The page references are to the pagination of the printed volume.

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1884—No. 257.

14.—LAS HOJAS—Lands denounced in favor of Andres Portillo, a resident of Ocotepeque. Bounded by farms Chucte, Chuctal, Mojanal, and Chaguiton.

Second Section.

(From Cerro Obscuro to Parallel of the ruins of Copan.)

1857.

15.—JOCONAL—(According to extract, page 26.)

1845—No. 441.

16.—PLANES—(According to extract, page 30).

1846—No. 305.

17.—LEONERA AND CUCHILLA—(According to extract, page 35).

1857—No. 657.

18.—SULAYITO—(According to extract, page 39).

1873—No. 158.

19.—CUCHILLA DEL TAMBOR—(According to extract, page 41).

1817–1847—No. 286.

20.—SAN FRANCISCO FORMAX—(According to extract, page 46).

1628—No. 571.

21.—ESTANCIA DE SAN NICOLAS OR ESTANZUELA—(According to extract, page 61).

1628—No. 384.

22.—OBRAJE DE SAN JOSE—(According to extract, page 75).

1722—No. 259.

23.—HORNILLOS—(According to extract, page 81).

1780—No. 450.

24. —POTRERO—(According to extract, 77).

NOTE.—These lands are situated one after another in a continuous line along the present line of possession in the Second Section. Back of these on Honduran territory are the following:

1878—No. 93.

25.—SESESMILES—Lands measured as Commons for Playon. Bounded by farms of El Playon, Curaren, and Planadas.

1876—No. 165.

26.—CURAREN—Lands measured as Commons for the Village of Leonera. Bounded by farms of Leonera, Sulayito, and Planadas.

1884—No. 538.

27.—PLANADAS—Lands denounced and measured as Commons for San Jorge. Bounded by farms Sesesmiles and Curaren.

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1895—No. 726.

28.—Los Descombros—Lands measured in favor of Esteban Mejia, resident of Copan. Bounded by farms Sulayito, Cuchilla del Tambor, San Francisco Formax, and Planadas.

Third Section.

(From the Parallel of the Ruins of Copan to the Sea.)

1737—No. 667.

(Two title deeds.)

29.—Tapesco de Avila—(According to extract, page 89).

1729—No. 575.

30.—San Nicolas Tolentino or Estancia Grande or Hacienda Grande—(According to extract, page 102).

1730—No. 493.

31.—Salto—(According to extract, page 107).

1722.

32.—Jutes—(According to extract, page 111.)

1736.

33.—Chaguites—(According to extract, page 199).

1885—No. 338.

34.—Managua—(According to extract, page 114).

Note.—These lands are situate one after another in a continuous line along the present line of possession in the Third Section. Back of these on Honduran Territory are the following:

1729—No. 420.

35.—Petapa—(According to extract). (This is the same as San Miguel de Copan, page 121).

1867—No. 568.

36.—San Miguel de Copan—(According to extract, page 126).

1896—No. 703.

37.—Cerron de Llano Grande—Land denounced by Demetrio Hernandez, resident of Santa Rosa de Copan. Bounded on the north by farms Sesesmiles and Llano Grande, on the south by those of San Miguel de Copan and San Nicolas de Tolentino, on the east by those of San Miguel de Copan, and on the west by those of Salto and Llano Grande.

1875—No. 77.

38.—Carrizalon—Commons of Santa Rita or Cachapa. Bounded on the west by farms San Miguel de Copan, Cerron de Llano Grande and Sesesmiles.

1729.

39.—Llana Grande—(According to extract, page 144).

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1888.

40.—LOMAS DEL AGUA FRIA—(According to extract, page 148).

1871—No. 92.

41.—LLANO GRANDE OR SESESMIL—(According to extract, page 149).

1888—No. 413.

42.—OCOTE—Land denounced by Maximo Duarte as Commons for the Town of Paraiso. This is situate to the north of the Copan Valley, to the south of lands of La Esperanza, to the west of the cordilleras of Grita and Espiritu Santo, and to the east of lands of Managua and Jubuco.

1891—No. 199.

43.—LA ESPERANZA—Lands denounced by Juan Droumond and Francisco Pineda and adjudicated to Jacobo Antonio Hartog. Its most widely known boundaries are, on the north, the Managua River; on the south the Commons of the Town of Paraiso; on the west the mountain of Espiritua Santo, The Morja River through the middle; and on the west the Jubuco River.

1837—No. 86.

44.—CUYAMEL—Lands denounced by Matias Arguello, a resident of the State of Honduras. This land is bounded on the north by the Atlantic Ocean, on the south by the Mountain of Omoa, on the east by the same mountain of Omoa, and on the west it extends to the old mouth or Manga Vieja of the Motagua River. The surveyor, when he made the measurement of this land, stated that he had crossed the quebradas of Agua Caliente, Santa Teresa, and a place called Jaleba.

GUATEMALA.

Extracts from copies of Guatemalan title deeds.

First Section.

1778.

1. LA BREA. (According to extract, page 154.)

1794.

2. MIRAMUNDO. (According to extract, page 160.)

1817–1847.

3. POZAS AND REMUDADERO. (According to extract, page 164.) Disputed.

1722.

4. PASALJA. (According to extract, page 169.)

1857.

5. PLAYON. (According to extract, page 173.) Disputed.

1738.

6. SULAY. (According to extract, page 181.)

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1738.

7. JUPILINGO. (According to extract, page 185.)

1743.

8. SAN JOSÉ. (According to extract, page 192.) Does not express the jurisdiction wherein it is situated.

1726.

9. COYOLES.—The extract is not made because the Guatemalan Commission omitted to sign the certified copy. The copy did not state the jurisdiction wherein it was measured. Its boundaries are as follows: On the north, Tapesco de Avila; on the south, Jupilingo; on the east, Potrero; on the west, the Commons of San Juan Camotan (page 198).

1743.

10. SAN JUAN CAMOTAN, CHAGUITES AND PEXJA. (According to extracts, page 199.)

NOTE.—Page references above are to the Spanish printed volume.

Judicial documents or proceedings had in the Copan Valley and in Ocotepeque:

Year.		Page.
1764.	Caparja and San José de Copan. Estate of Juana Lopez	211
1766.	Llano Grande, Hornillos, and Potrero. Inventory and appraisal of the estate of Juana de Avila	215
1780.	Jobo and San Antonio. Proceedings had on the petition of Bernardo Perdomo, Parish Priest of Jocotan	225
1793.	Ocotopeque. Meeting point of the jurisdictions of Guatemala, Honduras, and Salvador. Proceedings had on the petition of Pedro Antonio Figueroa, Captain of Infantry	227
1793.	Sesecapa, ecclesiastical jurisdiction of Ocotepeque. Proceedings had by the Mayor of First Instance, José Castejon	232
1800.	Estanzuela, Estancia Grande, and Sitio de Gila. Record of proceedings had at the instance of Presbitero Nicolas Diaz	233
1803.	Hacienda de Llano Grande. Estate of Francisca Ocana	237
1804.	Valley of the Copan. Estate of Juan Guerra	242
1812.	Hacienda de Llano Grande. Complaint against Manuel Calderon, resident of Copan	244
1813.	Estanzuela. Record of proceedings had on the complaint of Juan de Dios Luga against Casimiro Escobar	246
1832.	Playon (at present Encarnacion). Criminal proceedings against Regino and Francisco Guillen	248
1851.	Llano Grande in the Copan Valley. Inventory of the estate of Juana Lugo, made on the petition of Juan Rosel	250
1846.	Torrecillas, Copan Valley. Criminal proceedings against Maximo Diaz	253

The following data, extracted from the printed volume, is for the purpose of supplying the omissions in the Index above transcribed, and should be read in connection with the respective titles therein mentioned.

1677, 1731, and 1738.

6.—SAN CAYETANO DE SESECAPA—Bounded by Chaguiton, Barbasco y Brea (page 1).

NOTE.—The page references here relate to the Spanish text of the printed volume of title deeds hereinbefore referred to.

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1702—Certificate issued at Santa Rosa de Copan.

7.—BARBASCO Y BREA—Land denounced and measured in favor of Antonio de Erasso, resident of Gracias a Dios. Bounded on the north by farms Mecatal and Miramundo; on the south by San Cayetano Sesecapa; on the east by the Commons of Concepción; and on the west by farm La Brea, jurisdiction of Esquipulas, Guatemala (page 6).

1863—No. 352.

8.—MECATAL—Land denounced and measured in favor of Anselmo Dubon, a resident of Ocotepeque, Republic of Honduras. Bounded on the north by Miramundo; on the south by Barbasco y Brea; on the east by the Commons of Merendon (Concepción Jute); and on the west by the same land of Barbasco y Brea of Honduras (page 15).

1836—No. 358.

9.—SITIO MERENDON OR CONCEPCIÓN JUTE—Lands denounced and measured in favor of the Town of Concepción Jute for the Commons. Bounded on the north by land of Pozas, Isotes, and Joconal; in the south by National Lands of Honduras; on the east by the Commons of the Town of Merendon; and on the west by the farm Mecatal (page 22).

1857.

15.—JOCONAL—Land denounced and measured in favor of Juan B. Collart, a resident of the City of Santa Rosa in Copan, Republic of Honduras. Bounded on the north by farm Agua Caliente; on the south by the Commons of Conceptión Jute; on the east by Los Planes; and on the west by Pozas, Isotes, and Remudadero (page 26).

1845—No. 441.

16.—PLANES—Land denounced and measured in favor of Guadalupe Garza, Lucas, and Ubaldo Mejia; Bruno and Hipolito Reyes, Pedro Fernandez, Eusebio Lemus, and Llanuario Remirez, residents of La Labor, Republic of Honduras. Bounded on the north by the farms of Agua Caliente and Leonera; on the south by Joconal; on the east by Playon; and on the west by the same farm of Joconal (page 30).

1846—No. 305.

17.—LEONERA AND CUCHILLA—Lands denounced and measured in favor of Miguel Castejon, a resident of Sensenti, Republic of Honduras. Bounded on the north by Sulayito; on the south by Los Planes and Playon; on the east by Curaren; and on the west by the farm El Playon, at present in dispute with Guatemala (page 35).

1857—No. 657.

18.—SULAYITO—Land denounced before the Intendente de Gracias, Republic of Honduras, by Hermenejildo Duarte, a resident of Esquipulas, Guatemala. Bounded on the north by farms Los Descombros and Cuchilla del Tambor; on the south by Leonera; on the east by Curaren and Planadas, and on the west by the same farm of Leonera (page 39).

1873—No. 158.

19.—CUCHILLA DEL TAMBOR—Lands denounced before the Intendente de Hacienda, Department of Copan, Republic of Honduras, by Juan Dionisio Roque, resident of Esquipulas, Guatemala. Bounded on the north by farms Tixiban and Mapeno and Los Descombros; on the south by Sulayito; on the east by Los Descombros; on the west by the same farm Tixiban and Mapeno (page 41).

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1847—No. 286.

20.—San Francisco Formax—Land denounced and measured in favor of Gregorio Lugo, a resident of the Copan Valley, Republic of Honduras. Bounded on the north by farms Estancia de San Nicolas and Los Hornillos; on the south by Sulay (disputed) and Cuchilla del Tambor; on the east by the Commons of the Towns of Cabañas and Los Descombros; and on the west by San José (disputed) and Jupilingo (page 46.)

1628—No. 571.

21.—Estancia de San Nicolas or Estanzuela—Land measured in favor of Domingo Lizarrga, a resident of the jurisdiction of Gracias a Dios. Bounded on the north by the farms San Miguel of Copan and Petapa; on the south by San Francisco Formax; on the east by Los Hornillos and San Francisco Formax; on the west by the farms Potrero and San José (page 61).

1628—No. 384.

22.—Obraje de San José—Land situated in the jurisdiction of Gracias a Dios as stated in the title deed. It could not be allocated on the map through lack of sufficient data, but it is probably situate in the immediate vicinity of the farms called Estancia de San Nicolas, San José (disputed) and El Potrero (page 75).

1722—No. 259.

23.—Hornillos—Land title issued to Josefa Jimenez de Lugo, a resident of Copan, Republic of Honduras. Bounded on the north by the farms Petapa and Bonete or Zintule; on the south by San Francisco Formax; on the east by the Commons of the Town of Cabañas, and on the west by La Estancia de San Nicolas (page 81).

1730—No. 450.

24.—Potrero—Land situated in the jurisdiction of Gracias a Dios and measured in favor of Bernardo Pinto, a resident of Jocotan, Chiquimula de la Sierra, Guatemala. Bounded on the north by San Nicolas Tolentino, on the south by San José (disputed), on the east by La Estancia de San Nicolas, and on the west by the farms Coyoles and Tapesco de Avila (page 77).

1737—No. 667—Two title deeds.

29.—Hapesco de Avila.—Land situated in the jurisdiction of Gracias a Dios and measured in favor of Feliciano de Avila y Lugo, resident of Chiquimula de la Sierra, Guatemala. Bounded on the north by farms of Jute, Salto, and San Nicholas Tolentino; on the south by the farm Coyoles; on the east by the farms Salto and Potrero, and on the west by the Commons of San Juan Camotan, Guatemala (page 89).

1729—No. 575.

30.—San Nicolas Tolentino or Estancia Grande or Hacienda Grande.—Land situated in the Copan Valley, jurisdiction of Gracias a Dios and measured in favor of Miguel Pinto de Amberes, a resident of Chiquimula de la Sierra, Guatemala. Bounded on the north by the farm Salto; on the south by the farms Tapesco de Avila and Potrero; on the east by Llano Grande and San Miguel of Copan; and on the west by the same land of Salto (page 104).

1730—No. 493.

31. Salto.—Land situated in the jurisdiction of Gracias a Dios and measured in favor of Pascual Madrid, a resident of Chiquimula de la Sierra, Guatemala. Bounded on the north by the farms Jute and Llano Grande; on the south

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by Tapesco de Avila and San Nicolas Tolentino; on the east by Cerron de Llano Grande, and on the west by the farms Tapesco de Avila and Jute (page 107).

1722—No.

32.—JUTES.—Land situated in the jurisdiction of Gracias a Dios, measured in favor of Diego Jimenez. Bounded on the north by the farms Chaguites; south by Salto and Tapesco de Avila; on the east by Llano Grande and Salto; on the west by the Commons of San Juan Camotan, Guatemala (page 111).

1836.

33.—CHAGUITES.—Land situated in the jurisdiction of Honduras, measured in favor of Antonio de Paz Monteros, a resident of Zacapa, Guatemala. Bounded on the north by Pexja (in Guatemala); on the south by Jutes and the Commons of San Juan Camotan; on the east by Lomas del Agua Fria; on the west by Pexja (Guatemala) (page 199).

1885—No. 338.

34.—MANAGUA.—Land situated in Honduras, measured in favor of Francisco Fiallos, resident of the City of Copan, Honduras. Bounded on the north by Mirador and National Lands; on the south by Lomas del Agua Fria and Sesesmiles; on the east by Sesesmiles; on the west by Pexja (Guatemala) (page 114).

1720—No. 420.

35. PETAPA.—Land situated in the jurisdiction of Gracias a Dios. The same farm was measured in 1873 under the name of San Miguel de Copan, because the owner had lost his title deed. Within these lands are located the famous ruins of Copan. It is bounded on the south by the farms Bonete or Zintule, Hornillos, and Estancia de San Nicolas, separated by the Copan River (page 121).

1869—No. 568.

36.—SAN MIGUEL DE COPAN—Land situated in the jurisdiction of Honduras (formerly Petapa). Bounded on the north by Cerron de Llano Grande and Carrizalon; on the south by Bonete and Zintule, Hornillos and Estancia de San Nicolas, separated by the Copan River; on the east Carrizalon, Bonete or Zintule, and Hornillos; on the west Cerron de Llano Grande and San Nicolas Tolentino (page 126).

1729.

39.—LLANO GRANDE—Land situated in the jurisdiction of Gracias a Dios, measured in favor of Diego Jimenez. Bounded on the north by Lomas del Agua Fria; on the south by Salto and Cerron de Llano Grande; on the west by Jute (page 144).

1888.

40.—LOMAS DEL AGUA FRIA—Land situated in Honduras, measured in favor of Francisco Fiallos. Bounded on the north by Managua, on the south by Llano Grande, on the east by Sesesmil, on the west by Chaguites (page 148).

1781—No. 92.

41.—LLANO GRANDE OR SESESMIL—Land situated in the jurisdiction of Gracias a Dios, denounced by Manual Medrano Manchame, a resident of Chiquimula de la Sierra, Guatemala. Bounded on the north by Managua, on the south by Cerron de Llano Grande, on the east by Carrizalon, and on the west by Managua, Lomas del Agua Fria, and Llano Grande (page 149).

Extracts of copies of Guatemalan title deeds.

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1778.

1. La Brea—Land situated in the jurisdiction of Esquipulas, Chiquimula de la Sierra, measured in favor of Santiago Vidal, also a resident of Chiquimula. Bounded on the north by Miramundo and on the east by the farm Barbasco y Brea of Honduras (page 154).

1794.

2.—Miramundo—Land situated in Chiquimula de la Sierra, measured in favor of José Estebal Ramos. Bounded on the north by Chanmagua and Remudadero; on the south by the farms Mecatal, Barbasco y Brea (of Honduras), and by La Brea (of Guatemala) on the east by Pozas (page 160).

1817–1847.

3. Pozas Remndadero—Lands measured in favor of José Tobar, a resident of Esquipulas. Bounded on the north by Pasalja, on the south by Commons of Merendon or Concepción Jute, on the east by Joconal and Izote, on the west by Chammagua (disputed) (page 164).

1722.

4.—Pasalja—Land measured in favor of Augustin de Arbizu. Bounded on the north by Jupilingo, on the south by Chanmagua and Remudadero y Pozas, on the east by the National Lands and by Sulay, on the west by lands of Guatemala (page 169).

1817–1857.

5.—Playon—Land measured in favor of Julian Vides. Bounded on the north by Sulay, on the south of Agua Caliente, on the east by Leonera, and on the west by Pasalja (disputed) (page 173).

1738.

6.—Sulay—Land measured in favor of Juan Matias de Erazo. Bounded on the north by Jupilingo, on the south by Playon, on the east by Leonera and Cuchilla (Honduras) (page 181).

1738.

7.—Jupilingo—Land situated in the Valley of the same name and measured in favor of Tomás Rodriguez. Bounded on the north by San José, on the south by Pasalja and Sulay, on the east by San Francisco Formax, on the west by lands of Guatemala (page 185).

1743.

8.—San Jose—Land measured in favor of Antonio Cueva. Bounded on the north by the farms of Potrero and Coyoles, on the south by Jupilingo, on the east by La Estancia de San Nicolas and San Francisco Formax, on the west by lands of Guatemala (page 192).

1743.

9.—San Juan Camotan, Chaguites and Pexja—The land of San Juan Camotan belongs to the Commons of the Indians of San Juan Camotan and is bounded on the east by Tapesco de Avila and Jutes lands in Honduras.

The land of Chaguites belongs to Honduras. (See page 199, Volume III, Boundary Disputes between Honduras and Guatemala, Spanish Edition.)

The land of Pexja belongs to the Commons of the natives of the Town of San Juan Camotan, in Guatemala, and is bounded on the east by Managua and Chaguites, lands of Honduras (page 199).

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BRIEF ON BEHALF OF GUATEMALA.

By CHANDLER P. ANDERSON, Counsel of the Delegation of Guatemala.

PRELIMINARY STATEMENT.

On August 1, 1914, a treaty between the Republics of Guatemala and Honduras was signed, arranging for proceedings which were intended to result in an agreement between the two Governments, determining the location of the boundary between the two countries.

The friendly spirit in which this treaty was entered into is shown by the generous and cordial sentiments expressed in its preamble which recited:

> The Governments of the Republics of Guatemala and Honduras being desirous of establishing conclusively the demarcation of the boundary line between the two countries, which so far it has not been possible to fix, and which is the source of difficulties which it is to their mutual interest to remove, and being desirous also that the said matter should be settled to the satisfaction of both parties with all cordiality and with such deference as is proper among people who are brothers, neighbors, and friends, have deemed it advisable to conclude a Convention which shall fulfill those aspirations.

The general plan of this treaty was that the two Governments should appoint a joint technical commission, composed of an equal number of members from each side, and that this commission should undertake the study of all the facts, documents, and other evidence existing in respect to the boundary between the two countries, and that as a result of these investigations it should report to the Governments suggesting bases for their consideration in negotiations to be undertaken for a boundary treaty settling finally the location of their boundary, together with a plan showing the commission's recommendations as to the location of the boundary.

Upon the receipt of this report the treaty contemplated that the Governments should then proceed to discuss the bases proposed, and if possible as the result of these discussions agree upon a boundary treaty defining the boundary between the two countries.

It was made clear in this treaty that the two Governments were not bound to adopt the recommendations of the joint commission and that the bases to be proposed in its report were without prejudice to the rights of either Government and were intended merely to furnish the basis for discussion between the two Governments in their subse-

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quent negotiations for a boundary treaty, and each Government was free to accept or reject these bases or any part of them in its discretion. As expressly provided in Articles 5 and 6, the real discussion of the boundary was to take place after the commission had made its report and was to take into consideration the observations and studies of the commission only in connection with certain other considerations—which are specified—as to the value of the evidence supporting their various contentions, which considerations will be examined more fully later and require only passing mention here.

Pursuant to the provisions of this treaty, a joint technical commission was appointed as required therein, and this commission entered upon the study of the boundary question, but unfortunately very little progress was made with its work, as it disagreed at the outset upon some fundamental points of procedure. Its proceedings were, therefore, unproductive of results, and it was unable to report to the respective Governments any recommendations or bases for the conclusion of a treaty.

Notwithstanding the failure of this joint commission to make a report as required by the treaty, the Governments of Guatemala and Honduras have now undertaken to proceed with the negotiations contemplated in the treaty of 1914 without waiting further for a report from the joint commission, and in response to an invitation from the Government of the United States, their representatives have met in Washington in the present negotiation for the purpose of agreeing, if possible, upon a new treaty settling finally and definitely the location of their common boundary; and as evidence of their desire to reach such an agreement, they have accepted the courteous offer of the Government of the United States to preside over their discussions in the capacity of a friendly mediator between them.

BASIS OF THE PRESENT NEGOTIATIONS.

In view of the foregoing considerations, it follows that the basis of the present negotiations will be found in the provisions of the treaty of 1914, subject to the necessary readjustments resulting from entering upon this negotiation without waiting for a preliminary report from the joint commission as provided for in the treaty.

In this connection it should be noted that by the 16th article of this treaty the high contracting parties declare that they recognize as valid the work previously done by the Joint Boundary Commission in accordance with the requirements of the earlier treaty between these Governments, dated March 1, 1895, which in terms was identical with the treaty of 1914. It must be remembered, however, that the provisions of the two treaties being the same, the work of the com-

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mission under the earlier treaty stands in exactly the same relation to the present negotiations as similar work by the commission under the present treaty would have stood, and such work, as above pointed out, would have no binding effect upon the two Governments, and would serve merely as a basis for discussion.

The work done by the commission under the treaty of 1895 has already been discussed in the presentation of Guatemala's position in the present negotiations, and it has thus served its full purpose as a basis for discussion; so also the reasons for its rejection by Guatemala as not furnishing any bases for a boundary treaty have already been fully set forth and do not require repetition here.

The further provisions of the treaty of 1914, which have a bearing upon the present negotiations, are those requiring that in the negotiations which were expected to be undertaken after the joint commission had presented its report, certain considerations specified in articles 6 and 7 of the treaty must be borne in mind.

It has been admitted on both sides in the presentation of the contentions of their respective Governments that the considerations specified in these articles are applicable to the present discussion and these considerations are as follows:

ARTICLE 6. In order to take the resolutions of the case, the contracting Governments shall bear in mind, after the joint commission shall have presented the result of its work, the observations and studies of the said commission; the lines demarcated in public documents not contradicted by others of the same class and of greater force, giving to each the value which shall belong to it by reason of its antiquity and legal efficacy; the comprehension of the territory which constituted the old provinces of Guatemala and Honduras at the date of their Independence; the provisions of the Royal Ordinance of Intendentes which was then in force; and in general all such documents, maps, plans, etc., which may lead to the discovery of truth, giving preference to those which, by their nature, must have more force by reason of their antiquity, or because they are clearer, more just, and impartial, or for any other reason founded upon the principles of justice.

Value must be given to possession only in so far as it is just, legitimate, and well founded, according to the general principles of law and to the rules of justice which have been sanctioned by the Law of Nations on this subject.

ARTICLE 7. In agreeing upon the demarcation of the dividing line between Guatemala and Honduras, the respective Governments may, if they deem it necessary or expedient, adopt the system of equitable compensation, according to the rules and usages established in international practice.

It has also been settled by common consent on both sides that for the purposes of this negotiation the above-mentioned provisions of the treaty of 1914 mean that in seeking the boundary it is necessary to take as the basis "the comprehension of the territory which constituted the old provinces of Guatemala and Honduras at the date of their independence"; in other words the *uti posseditis* of 1821.

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It has also been agreed on both sides that by reason of the last paragraph of Article 6, the principle of *uti posseditis* as here applied means that the right to territory depends not on *de facto* possession, but primarily upon the legal character of such possession, because actual *de facto* possession must give way to the right of possession *de jure*, subject always to the requirement of equitable adjustments, as provided for in Article 7.

These points of agreement are stated in the reply of Honduras dated June 22, 1918, as follows:

A binding treaty, duly ratified by the Governments of Honduras and Guatemala, that of August 1, 1914, expressly provides that the primary basis for the determination of the boundary line of the two countries shall be "the extent of the territory that comprised the ancient provinces of Honduras and Guatemala at the date of their Independence." The adjustment of the boundary, which is the purpose of the present mediation, is therefore precisely the investigation and ascertainment of the territorial limits of the ancient Provinces as they stood on September 15, 1821; and once these limits are ascertained, the treaty provides (Article VII) that a boundary line may be sought which shall more fully satisfy the requirements or convenience of both countries, by adopting the system of equitable compensation provided for in the rules and practices of International Law.

Happily, for the success of this Conference, the Representative of Guatemala has expressly admitted this doctrine in his memorandum of May 24th last, wherein he states that the boundary of the two republics shall be based upon "the comprehension of the territory which constituted the former provinces of Honduras and Guatemala at the date of their Independence," and that possession shall have value only when it is just, legitimate, and founded upon the general principles of law and the rules of justice which on this subject have been sanctioned by the law of nations.

THE FUNCTION OF THE MEDIATOR.

It has been recognized on both sides from the outset that neither side would be able to persuade the other to agree upon the extreme contentions which each has presented. But it has also been recognized on both sides that the chief purpose of the present negotiations was to settle this controversy by fixing a boundary by agreement.

It has been made clear in the course of the discussion that a settlement by agreement is the only possible solution. It was announced on the part of Honduras in its rejoinder of June 29, 1918, that Honduras could not consider as subject to arbitration Guatemala's claim under the royal cedula of 1563 to "dominion over one-fourth of the territory which Honduras has legitimately possessed for nearly four centuries, as well as the change of nationality of all or part of eleven of her seventeen departments, with a population approximately equal to half of the total upon her soil."

Honduras presumably regards so extensive a claim as affecting her vital interests and there has been in the past a general consensus

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of opinion among nations that questions affecting their vital interests may properly be withheld from arbitration. So also the claim of Honduras to the harbors and coasts of Guatemala on the Gulf of Honduras would equally be regarded as affecting the vital interests of Guatemala.

The alternative of war is an equally impossible solution, and yet it has been stated on the part of Honduras in its reply dated June 22, 1918, that the serious assertion of such claims on either side would signify the intention of taking forcible possession of the territory claimed at the first opportunity, which would meet with the forcible opposition of the people on the other, and would justify warlike preparations for defense. In this connection it is stated in the rejoinder of Honduras, dated June 29, that in default of arbitration there was no other means of solution than the force of arms, apart, of course, from a voluntary agreement such as is now proposed; and it is pointed out as a matter for reflection that "such a war would not have been like all the others which have occurred in Central America, because although they have been between State and State, had the character of real civil wars, inasmuch as the invader had one of the political parties as an ally, as these parties grasped hands across the frontier, which would not happen in a war of conquest."

The reasons for introducing these considerations into the discussion of this case has doubtless been to emphasize the necessity of reaching a voluntary agreement in the present negotiation settling finally the location of the boundary. They are useful for that purpose and they also serve to show that the settlement of this question by means of such an agreement is the only possible solution of the question, for resort to war must be regarded as inadmissible. All of this was well understood by both Governments, as well as by the United States from the outset, and undoubtedly it was for these reasons that mediation by the Government of the United States was arranged to insure finality.

The fruitless efforts of the two Governments in the past to solve this problem by direct negotiations has demonstrated the futility of that method without the disinterested advice and assistance of a friendly and acceptable mediator. As stated in the reply of Guatemala dated July 25:

> We have come before this just government, after being convinced that the course followed for a good many years has proved absolutely fruitless; three conventions have been concluded; joint commissions of technical persons have vainly succeeded each other; diplomatic negotiations from Government to Government have been recently attempted and everything has been useless; the question still remains without solution.

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and now again in the course of the present negotiations each side has presented its contentions supported by evidence and arguments and followed by counterdiscussion and opposing arguments and yet no common ground of agreement on the boundary has been found. The result of all this earnest and painstaking effort seems to be that the boundaries claimed by the respective Governments are further apart than ever. Clearly the time has arrived when the assistance of the mediator is required and the question arises as to what are the exact functions of the mediator.

The views of the Government of Guatemala on this point have already been expressed in its representative's first statement of May 24, and reply of July 25. In the former it is stated:

> The constant and useless debate on the subject of the demarcation of boundaries between Guatemala and Honduras, which has been going on for so many years, persuaded their respective Governments that the amicable mediation of a friendly Nation might bring about the just and honorable solution of their differences which both parties have so eagerly sought. In order to reach this solution they have accepted the kind offer of the illustrious Government of the United States, through whose good and friendly offices they expect to attain this so much hoped for solution, in the assurance that the said officers will be inspired and guided by the spirit of justice which the Government at Washington exercises in all its acts, and which attracts to it the admiration of every one, both at home and abroad.

The reply of July 25, after referring to the fruitlessness of all previous negotiations, goes on to say:

> For these reasons we have attempted to put forth a new effort; we have come here to attempt to reach an understanding in the house of a common friend, and in case that we should not succeed in this purpose, to submit to him our differences in order that he may, through his wisdom and sense of justice and love for harmony among Nations, suggest to us a solution, and endeavor to conciliate our interests.

It is further pointed out in this reply that the present proceedings are not arbitration proceedings, but both sides having stated their claims with the legal foundations for the same, and no agreement having been reached, the mediator and respective parties are now in a position to appreciate the value of their respective claims, and that the time has come for the Government of the United States in the exercise of its good and friendly offices as mediator, and in view of the rights of both parties and of their political and economic conveniences, to suggest to them a solution which will bring their interests into harmony, and finally solve their differences.

The position of Honduras, as stated in the documents submitted on its part in these discussions, is in entire accord with that of Guatemala as to the importance and necessity of reaching a final agreement through the intervention of mediation in this case.

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In the memorandum of Honduras dated August 27, amplifying its duplica presented July 1, it is stated:

> It is quite true, as has been stated by the Representative of Guatemala, that mediation having been accepted, the object sought is that the friendly nation shall advise us as to the best solution and not that it make an award. But as a matter of fact, the distinction in the present case appears to be one of form rather than of substance. In view of the fullness with which both parties have discussed the matter, their repeated statements that they wish to arrive at a just and friendly settlement, and in view of the confidence which Honduras and Guatemala have in the impartiality and justice of the United States, and the latter's traditional friendship for both countries, I feel certain that the Honorable Mediator will proceed in this matter with the same righteousness and learning with which he would have made an arbitral award.

It is evident from the foregoing considerations that the function of the mediator is to propose for the acceptance of the two Governments a boundary line which will furnish a permanent and lasting solution of their differences in view of their political and economic requirements, taking into consideration their respective contentions and the legal bases for the same with such readjustments as may be required under the system of equitable compensations as provided by Article 7 of the treaty of 1914, including such modifications as may be required to make it conform to the best natural boundaries in order that a clear and stable line may be established.

The real distinction to be drawn between mediation and arbitration, as applied to the functions of the mediator in this case, is that for the purpose of reaching a definite boundary agreement through mediation both parties have conferred upon the mediator certain discretionary powers, whereas discretionary powers are not generally conferred upon an arbitrator.

QUESTIONS TO BE CONSIDERED BY THE MEDIATOR.

In order to insure the success of this negotiation, the purpose of which, as above pointed out, is to bring about an agreement between the two parties fixing the location of their common boundary, it will be necessary for the mediator to propose for their acceptance the boundary line which in his opinion should be acceptable to them, and to that end there are certain definite considerations which must be borne in mind by him in determining this boundary.

As above stated both sides have accepted the treaty of 1914 as determining the basis of these negotiations, and accordingly among the considerations to be borne in mind by the mediator, in proposing a solution, are the requirements of Article 6 above quoted as to the

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qualifying factors and standards of value thereby established, and to which these proceedings must conform.

In this connection the mediator must also bear in mind, as further provided in Article 6 of the treaty, that value must be given to possession only in so far as it is just, legitimate, and well founded, according to the general principles of law and to the rules of justice which have been sanctioned by the Law of Nations on this subject.

Furthermore the mediator must determine how far it is necessary or expedient to adopt the system of equitable compensation, acording to the rules and usages established in international practice pursuant to Article 7 of the treaty.

So also, by common consent, the mediator must consider what readjustments or modifications are required in order to make the boundary follow geographical or topographical formations or landmarks offering the best means of establishing a natural and stable boundary.

Having all these considerations in mind and taking into consideration also the political and economic requirements of both countries the mediator must then proceed to define the boundary in accordance therewith, which he determines should be adopted as a final and permanent settlement of all questions of difference arising out of this boundary dispute.

For the convenience of the mediator the basic contentions of the Governments of Guatemala and Honduras with reference to these required considerations, as presented on their behalf in these negotiations, are briefly summarized below:

First. The requirements of Article 6 of the treaty:

As has been fully set forth in the presentation of Guatemala's contentions, the royal cedula of 1563 determines the boundary between the Provinces of Guatemala and Honduras, which was confirmed and completed by the royal cedula of 1564. Copies of these cedulas in agreed form have been submitted to the mediator. These documents have justly been given the highest value in the preferential classification of values fixed by Article 6 of the treaty, and even without any such agreed classification they would be entitled to preference over all other classes of evidence in ascertaining the sovereign will of the king of Spain as to the boundaries between two of his colonial possessions, the territorial extent of which was subject to his royal decree.

In the absence of any later royal cedulas overruling or modifying these cedulas, they stand supreme as the basis of the territorial extent fixed for these Provinces by the supreme authority having jurisdiction of that subject up to the date when they threw off that authority and became independent States.

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It has also been shown by the other documents submitted that the claim of Honduras to the entire Atlantic coast of Guatemala up to Belize, and even including Belize itself, is without legal justification, and that the so-called line of possession, including Copan within territory claimed by Honduras, represents at most only a *de facto* possession without legal title, and under the provisions of the final clause of article 6 of the treaty, is valueless as against Guatemala's right of possession *de jure*.

It has been contended on the part of Honduras that the boundary determined by these royal cedulas of 1563 and 1564 has been extended to the advantage of Honduras by the subsequent orders of 1745 and 1818, and it has also been contended that the royal cedula of 1564 has the effect of modifying this cedula of 1563.

In the discussion of these questions it has been demonstrated on the part of Guatemala that the documents mentioned do not support the claim of Honduras, and a repetition of these discussions is unnecessary here. It may be convenient, however, to point out briefly that even if it be assumed as contended by Honduras that the cedula of 1564 cancels the cedula of 1563, which is denied by Guatemala, nevertheless it would not follow that the boundaries described in the royal cedula of 1563 were changed by the royal cedula of 1564. This is demonstrated by an examination of the internal evidence furnished by the terms of the order of 1564. In this later order it is stated—

and because it is well and advisable that the district and the limits which the said Government of Guatemala is to have shall be known, by these presents it is our grace and will to declare and command that the said governancy (governacion) of Guatemala shall have for limits and district from the Bay of Fonseca inclusive to the Province of Honduras exclusive by straight line (linea rata) and that for the part which borders with the Province of Honduras it shall remain according to the boundaries (terminos) *which until now it has had* and the Province of La Verapaz and Chiapa.

It is clear, therefore, that notwithstanding the claim of Honduras as to the effect of the cedula of 1564 on the provisions of this cedula of 1563, it was not the intention of the later cedula to alter the boundaries stated in the earlier cedula, because "the boundaries which it had up to now," which are confirmed in the cedula of 1564, are the boundaries which were defined in the cedula of 1563.

The recital in the cedula of 1564 that the boundaries dividing the Province of Guatemala from the Province of Honduras shall remain as they had been up to the date of that cedula, can have no other meaning than that the boundaries described in the cedula of 1563 shall continue, because prior to the cedula of 1563, no royal cedula had been issued fixing the boundaries; and as stated in these cedulas of 1563 and 1564, the boundary was fixed by these because it is

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well and advisable that the district and limits of the said Government of Guatemala be known. The requirement in this cedula of 1564, therefore, that the boundaries should remain as they were before, would be meaningless if it did not refer to the boundaries fixed in the cedula of 1563. Clearly the boundary under the cedula of 1563 was confirmed and continued under the cedula of 1564, and consequently the boundary in the cedula of 1564 must be understood as coinciding with the boundary defined in the cedula of 1563.

It is contended on the part of Honduras that the boundaries described in these two cedulas must be different, because the cedula of 1564 commands that it "shall be kept and carried out notwithstanding another provision of ours which we commanded to be given respecting the said limits in the city of Caragoza on the eighth day of September, one thousand five hundred and sixty-three, because it is our will that there shall not be kept and carried out but this which we now give." A less superficial examination of this cedula will show that this reference to the earlier cedula has a distinctly different meaning from that suggested by Honduras. It appears that there were two royal cedulas, both dated the 8th of September, 1563. One of these changed the royal audiencia which resided in the city of Santiago of the Province of Guatemala to the city of Panama of the Province of Tierra Firme, and defined the district of that audiencia. The other fixed the limits between the Provinces of Guatemala and Honduras, and transferred Luis de Guzman, Governor of the Province of Tierra Firme to the Province of Guatemala, to have the government of that Province. When, therefore, the king commanded in the following year to substitute one Busto de Villega as Governor of the Province of Guatemala in place of de Guzman, and for that purpose issued the cedula of 1564 appointing the new governor, it was appropriate and according to custom to insert in the new cedula this clause expressing his will that the new cedula was to be carried out, notwithstanding the provisions of the previous cedula. It was also appropriate and necessary in referring to the cedula of September 8, 1563, which was not to be carried out, that it should be identified in some way, so as to distinguish it from the other cedula of the same date, which was not affected. It was not sufficient to refer to it merely as "another provision of ours which we commanded to be given in the City of Caragoza on September 8, 1563," because that would not have identified which of the two cedulas of that date was referred to. For the purpose of identification, therefore, it was necessary to insert in the reference the words "respecting said limits," as words of description identifying as the order referred to the one which the king had commanded to be given on September 8, 1563, respecting the limits of the Province, and not

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the other one of that date respecting the district of the audiencia. This meaning is unmistakable when it is understood that the Spanish word "*provision*" means a mandate issued in the name of the king; an *edictum regum;* in other words, the decree itself, and not merely a provision in the decree as suggested in the English translation furnished by the Honduran translator.

In this connection attention is also called to a further correction which must be made in the English translation, namely, to strike out the period inserted in parentheses "(.)," which does not appear in the Spanish text between the words "limits" and "in the City of Caragoza."

If this clause had been intended to mean, as claimed by Honduras, that the limits fixed in the cedula of 1563, rather than the appointment of the governor, was to be superseded, both of the cedulas of September 8, 1563 would necessarily have been referred to, because the same limits are fixed between those Provinces in both cedulas.

It may also be convenient to note here, as to the decree of 1745, that even if it was susceptible of the interpretation claimed for it by Honduras, which is not admitted by Guatemala, and is refuted by the internal evidence found in the provisions of the decree itself, nevertheless, this decree is of negligible importance, because it was in effect overruled and revoked by the two later decrees dated January 3, 1747.

As to the royal decree of 1818, it is not shown that the boundaries were ever actually readjusted in the manner proposed in this decree, so as to incorporate Omoa in Honduras, and there is no evidence that it was recognized as in force by the Provinces concerned during the three years intervening up to the time when they became independent states in 1821, or indeed that it was ever communicated to these Provinces.

On the other hand, it is shown that this decree was not regarded by them as in force at that time, because subsequently Honduras accepted with evident satisfaction the territorial division defined in the imperial order dated November, 1822, issued by Iturbide, the Emperor of the Mexican Empire, of which these provinces at that time formed a part, in which order the town of Omoa was distinctly placed under the jurisdiction of the Province of Guatemala.

In any event the royal order of 1818 establishes the fact by its own terms that prior to that date Omoa was under the jurisdiction of Guatemala, and that a royal order was necessary to incorporate Omoa within the jurisdiction of Honduras.

The subsidiary documents furnishing the historical background supporting Guatemala's contentions, as well as the documents produced on the part of Honduras, in so far as they have any material

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bearing upon the location of the boundary of 1821, have been fully discussed on both sides in the several statements already submitted to the mediator on behalf of each Government, and any further exposition of these documents would be superfluous at this time, unless requested by the mediator.

Second. Readjustments on the basis of equitable compensations.

It may serve to lighten the labors of the mediator and simplify the proceedings to call attention in this connection to the following statement made on the part of Guatemala in its final memorandum:

> The fact that each party has declared how far their respective claims extend does not necessarily imply that their demands extend to that point also and much less that such be the lines which will be ultimately fixed.
>
> We have been called together by the illustrious Government of the United States that we may arrive at a friendly settlement which shall put an end to our differences, and having gratefully accepted such a friendly and honorable initiative, we have tacitly agreed to yield part of our rights because the idea of a compromise carries with it, according to the universally recognized practice, the indispensable condition that the contending parties shall yield or sacrifice something of what rightfully belongs to them.

It is understood that the attitude of Honduras is reciprocally the same, but we do not assume that the mediator will find any merit or legal justification in the claim of Honduras extending its territory to the borders of Belize, including the entire water front of Guatemala, or even in its claims to the territory adjoining the Motagua River, or indeed to any of the extensive encroachments under which Honduras has seized possession of territory without legal title beyond its legitimate borders.

Nevertheless, it must be remembered in considering this aspect of the case, that if any weight is given by the mediator to the plea of Honduras that mere possession is entitled to consideration, this can not go to the extent of establishing a legal right, but concerns only the question of readjustments on the ground of convenience. Any consideration, therefore, which is given by the mediator to the claims of Honduras on the ground of *de facto* possession will represent the exaction of serious concessions from Guatemala in relinquishing a right of possession *de jure*, and consequently it will be encumbent upon the mediator to make some compensating readjustments to counterbalance such concessions so far as possible.

It is only fair to state, however, that in making the above suggestion it is assumed as a matter of course that no serious consideration would be given to any claim put forward by Honduras which would affect the vital interests of Guatemala. The illegality of the territorial encroachments by Honduras has already been pointed out, but in addition to that, and considering this question broadly and with reference to the situation generally in both countries, it clearly

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would be inequitable and unjust to permit Honduras, with her extensive sea coast and convenient harbors, to encroach upon any of Guatemala's limited sea coast and harbors, or upon any part of the strip of territory lying between the mountains and the Motagua River.

It is a fact, which is well known to the mediator, that the chief artery of trade and practically the only convenient channel for Guatemala's sea borne commerce on the Atlantic Ocean is the railroad extending along the side of the River Motagua, connecting Puerto Barrios with the capital and interior of Guatemala. This railroad is also of great importance to Guatemala for military reasons on account of its strategic value which would be seriously impaired if the boundary of Honduras was extended anywhere beyond the mountain range which stands as a natural barrier to the east of this river.

It is evident, therefore, that for political and strategic, as well as economic reasons, any boundary which would give to Honduras jurisdiction over this railroad or jeopardize its security would affect the vital interests of Guatemala.

As stated in the last memorandum on the part of Guatemala:

> It is now proper for the honorable mediator to take the foregoing into consideration and give us his friendly and impartial advice. We confidently look for it, inasmuch as we are thoroughly convinced that before giving it he shall weigh in the scales of justice the right and the evidence of each state, and weighing them according to the stipulations of the solemn treaties which binds them, he shall find a way to conciliate their present and future interests, political as well as economic and commercial interests, and to recommend a boundary which shall be a sure guarantee of peace and good harmony and a bond of perpetual friendship between the two countries.

To avoid any possibility of misunderstanding, it must be noted in relation to the question of concessions that the entire discussion of this case has proceeded on the basis of arranging a compromise settlement through mediation, and it must be understood that the suggestion of a settlement by compromise is made without prejudice, in case no settlement is reached, to the subsequent assertion of the full extent of Guatemala's legal claims to more extensive territories than can be expected on the basis of mutual concessions to bring about an agreement through mediation, and that as to these claims all rights are reserved.

Third. The establishment of a natural and stable boundary.

By common consent on both sides, the advantage of fixing the boundary by means of geographical or topographical formations furnishing natural divisions or defensive barriers is recognized, and it is mutually agreed that the mediator in defining the boundary to be proposed by him shall be at liberty to make it conform, so far as possible and wherever convenient, to divisions suggested by natural formation.

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As stated on the part of Honduras in its reply dated June 22d:

> Once the legal boundary line is agreed upon, that line can be modified in the search of the nearest natural boundaries which shall establish a clear and stable line, subject to the rule of compensations provided for in Article VII of the Convention above cited.

So, also, on the part of Guatemala the desire has been expressed that natural boundaries should be selected for the dividing line between the two countries, subject, as above stated, to the rule of compensations.

The position of Guatemala on this point is summed up in its final memorandum recently filed, as follows:

> That boundary shall fully comply with the purpose for which it is made if it is natural and invariable and clearly defined and meets all such conditions as experience would seem to advise for separating the states without leaving their mutual interests under threat or danger of conflict, otherwise it would inevitably and fatally give rise in the near future to difficulties and frictions which we all have the firm purpose of avoiding.

The position of Honduras on all these points is summed up in the rejoinder of June 29, filed by the honorable representative of that Government, in which he said:

> I only ask that the right of the two Republics be clearly investigated, which I hope will be done through the presentation of documents and subsequent oral discussions; and then a way may be found to arrive at an agreement fixing a natural and, so far as possible, a stable and, above all, equitable line, which shall take into consideration the legitimate interests of both parties.

The solution.

It will be remembered that in the earnest and eloquent address of welcome delivered by the Secretary of State at our first meeting, in Washington, the following hopeful suggestion was expressed:

> It is such a conference as this, inspired by the spirit of conciliation, that makes manifest to the American Republics and to all the world the sentiment which should always govern international relations. I regret to say that it has been the long and too general practice of nations to seek their own interests and to win every advantage with little regard to the justness of the claims of others, so that commissions of adjustment have frequently failed to gain that reputation for impartiality which is the highest characteristic of an international body. From such selfish motives I believe that the commissioners of the two Governments here represented will be free. Both countries can not be wholly right in their contentions. It is, therefore, your duty to approach the subject with open minds. I am sure that I voice your thought when I say that justice must be first in considering the various phases of the problem which you are called upon to solve. I can not doubt but that you will agree with me in affirming that it is better for one's country and for the world to admit an error than to strive to maintain it, whatever national advantage may be surrendered.

In response to this statement the representatives of both Governments have indicated their desire and intention to deal with this subject in accordance with the lofty sentiments of the Secretary of State.

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In the first memorandum filed on the part of Honduras, the honorable representative of that Government stated:

I believe that the powers and instructions given me by my Government place me in position to meet the wishes and hopes expressed by the Secretary of State in his opening address, and I trust that the Guatemalan representatives will be similarly situated.

In the first memorandum filed on the part of Guatemala, the honorable representative of that Government stated:

The Government of Guatemala, representing a people bound to that of Honduras by a community of origin and an identical history, shall discuss their rights with the Honduran Government in a spirit of fraternal friendship. I shall take especial care not to deviate from those happy dispositions and be always ready to accept or consider any just solution which shall take into consideration the real interests of both nations.

Notwithstanding the earnest endeavors of the representatives of the two Governments to reach an agreement through the direct discussion of the questions under consideration, no agreement has yet been reached; nevertheless, and perhaps all the more for that reason, the imperative necessity for reaching an agreement as a result of these negotiations still prevails.

It has been made clear in these negotiations that the only way of reaching a settlement of this boundary dispute is through the proposal by the mediator for the acceptance of both Governments of a line which in his opinion most closely conforms to their mutual rights and interests in accordance with the considerations and requirements controlling the present negotiations. The next step, therefore, is for the Mediator to propose such a boundary line.

Conclusion.

Confident of the justice of its contentions, yet understanding the necessity of reaching an agreement about this boundary and the difficulty of finding a common basis of agreement except through mediation; and appreciating the necessity of making substantial concessions in order to reach an agreement; and recognizing that a mutually satisfactory settlement of this boundary dispute will terminate for all time any friction between the two countries regarding their common boundary; and by removing this cause for controversy will leave nothing to prevent them from working together in perfect confidence and harmony in developing their resources in the interests of humanity and civilization; the Government of Guatemala has submitted its case to the Honorable Mediator, with entire confidence that he will give just and impartial consideration to the interests of both sides.

(Signed) CHANDLER P. ANDERSON,
Counsel of the Delegation of Guatemala.

SEPTEMBER, 1918.

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ANNEX TO THE BRIEF PRESENTED BY THE COUNSEL OF THE GUATEMALAN DELEGATION TO THE HONORABLE MEDIATING GOVERNMENT IN THE BOUNDARY DISPUTE WITH HONDURAS.

After the above brief or summary had been completed, the delegation of Guatemala learned of the evidence submitted by the honorable representative of Honduras to the honorable mediating Government, and while the whole of this evidence has been rebutted in the memoranda which it had the honor to present, the said delegation has deemed it advisable to summarize now the arguments which it has formulated on this subject; even although it shall be only for the purpose of clearing up the matter and to conform itself to the precedent laid down by Doctor Bonilla, who availed himself of the presentation of his proofs to impeach those of Guatemala, which he had previously had the opportunity to know.

Our honorable adversary persists in his plan to divide into sections the line which, as he says, must demarcate the territorial jurisdiction of both States, and he proposes that for the purpose of passing upon the legitimacy of his claims over each one of the said fragments the different criteria be adopted which are furnished by the works of the Joint Boundary Commissions, the title deeds to lands and colonial law, as it may be advisable or not, according to the interests of the Government which he represents. There is at first sight apparent the irregularity and injustice which the application of such an unusual method would entail, and there becomes apparent the deplorable oblivion to which the honorable delegate of Honduras relegates the boundary treaty which must serve as a guide; and that he, not only once but several times, solemnly has declared to be in force and binding between the two parties, and that, therefore, its provisions constitute the unchangeable standard to which they must conform all proceedings intended to settle in a just manner the present controversy.

It is, therefore, beyond all possible controversy that it is in the light of that treaty and in accordance with its provisions that the evidence presented by the parties must be qualified and weighed, according to law, and thus it is that we will, in conformity with these principles, proceed to examine the said evidence:

1. The boundary treaty of 1914 clearly and concisely provides in Article VI that "In order to take the resolutions of the case, the contracting Governments shall, after the Joint Commission shall have presented the result of its work, bear in mind: The observations and studies of the said Commission; the lines demarcated in public documents not contradicted by others of the same class and of greater force, giving to each the value which shall belong to it by reason of its antiquity and legal efficacy; the comprehension of the

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territory which constituted the old Provinces of Guatemala and Honduras to the date of their Independence; the provisions of the Royal Ordinance of Intendentes which was then in force; and in general all such documents, maps, plans, etc., which may lead to the discovery of truth, giving the preference to those which, by their nature, must have more force by reason of their antiquity, or because they be clearer, more just and impartial, or by any other reason founded upon the principles of justice. Value must be given to possession only in so far as it is just, legitimate, and well founded, according to the general principles of law and to the rules of justice which upon the subject have been sanctioned by the Law of Nations."

2. The honorable representative of Honduras has recognized in his memorandum of May 24th and in his duplica of June the 29th, in referring to the ecclesiastical jurisdiction, that the evidence must be weighed in the strict hierarchical order established by the article which has just been quoted, a principle which, on the other hand, is accepted and respected by the delegation of Guatemala.

3. In view of the foregoing it is proper to appreciate, following the said order, the value of the elements which are useful for determining the territorial rights of the parties:

(*a*) *The observations and studies of the joint commission.*—On account of all the reasons adduced and proved by the delegation of Guatemala in its different pleas, can not be reputed as proper to settle the case, and they therefore render entirely valueless the documents which Doctor Bonilla presents in respect to this matter. The said reasons may be summarized thusly: The works of the joint commission did not conform to the treaty of 1895; they were incomplete and have not been submitted nor approved by the respective Governments; no agreement was ever reached between the said commissions; etc.;

(*b*) *The lines demarcated in public documents not contradicted by others of the same class and of greater force, giving to each the value which shall belong to it by reason of its antiquity and legal efficacy.*—To this category belongs the royal decree of 1563 which fixes the boundaries of the Province of Guatemala, confirmed and completed by that of 1564; and to which the honorable delegate of Honduras has vainly endeavored to oppose that of 1745, by which Don Juan de Vera is appointed governor; which is not *of the same class* as the one presented by Guatemala, because it *does not fix any boundaries;* which only confers to De Vera special powers in so far as Guatemala is concerned; and which, furthermore, was expressly repealed by the royal decrees of January 3d, 1747, by which Don Francisco Cagigal de la Vega is appointed governor of Guatemala;

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(*c*) *The comprehension of the territory which constituted the old Provinces of Guatemala and Honduras to the date of their independence.*—This comprehension, according to the general principles of law and to the letter and spirit of the treaty by which we must be guided, is to be fixed in conformity with the titles of ownership which constitute the only royal decrees fixing boundaries emanating from the Spanish monarch, that is to say, those of 1563 and 1564; inasmuch as possession whether tranquil or violent, prolonged or precarious, consented to or rejected, admitted or denied by inferior authorities, lacks of course legal character and force, in view of the previous existence of real and perfect titles of dominion as the Royal Decrees of 1563 and 1564; and therefore the said possession does not fulfill the conditions which the Treaty of 1914 establishes as essential, in order that it may be taken into consideration.

These considerations are sufficient to invalidate the numerous title deeds to lands which in two hundred and fifty-five printed pages are presented by Señor Bonilla in Volume III of his exhibits. It may not be amiss to add that Guatemala is in possession of documents of the same nature and that she does not exhibit them in order not to fall into inobservance of the treaty, which she now charges; and,

(*d*) *The provisions of the royal ordinance of intendentes which was then in force, etc., etc., etc.*—Could and ought to be taken into consideration, if there was no evidence of the previous categories which precedes them, depriving them of value and force. It being as it is established by the documents presented by the delegates of Guatemala that the said evidence exists and has entire legal efficacy, it is out of the question, and it would only complicate the procedure and thwart the meaning of the treaty, to enter now into an examination and discussion of the said evidence.

4. In respect to the documents relating to the civil and ecclesiastical jurisdiction, assertions of historians, geographers, and literary men, impressions of travelers, maps, charts, notes, telegrams, etc., etc., which constitute the greater part of the voluminous evidence presented by the honorable delegation of Honduras; it can only be said, that if they are previous to the independence, they lack legal value because none of them has the character of a royal decree demarcatory of boundaries subsequent to those of 1563 and 1564 on which Guatemala bases her territorial rights; and if they are subsequent to such a historical date, they can not be taken into consideration either because Article VI of the boundary treaty of 1914, which I have just quoted, establishes that the comprehension of the Prov-

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inces of Guatemala and Honduras existing in 1821 shall be, within the category to which they belong, the basis for the demarcation of the boundary.

In passing I deem it relevant to state that the honorable delegate of Honduras in his endeavor to supply quality to his evidence by the amount of its exhibits, includes as such evidence many documents which have no connection whatsoever with the subject of boundaries—appointment of governor of Honduras in favor of Don Bartolomé Pérez de Quijano and Don Alejandro Garcia Conde and the appointment of Don Juan Antonio Fornos y Cagigal as intendente of Comayagua, and others which are manifestly unfavorable to the cause which he defends—note of the General Don Justo Rufino Barrios to the land surveyor and engineer, Don Juan B. Collart.

It is proper, therefore, to inquire: What is there left of the spectacular and fragile edifice so laboriously and perseveringly erected by the honorable delegate of Honduras? And logic and reason compel us to answer: The plain and absolute confirmation that the evidence and arguments on which Guatemala bases her legitimate claims are unshakable; because they rest upon the eternal principles of truth and justice and on a legal and strict compliance with International Agreements.

Washington, D. C., November 8, 1918.

SUMMING UP OF THE BOUNDARY DISPUTE BETWEEN GUATEMALA AND HONDURAS, SUBMITTED BY THE GUATEMALAN MISSION.

The boundary controversy between Guatemala and Honduras dates as far back as the old colonial days; it originated in the hostile relations between the conquerors who, because of their personal ambitions, refused to comply with the orders of the Crown. These differences were inherited by the States upon their coming into their independent life; and it was only in 1845 that for the first time an unsuccessful effort was made to terminate such differences by means of a treaty whereby Guatemala and Honduras acknowledged as their common boundaries those laid down for the diocese of each in the royal ordinance of intendentes—that is to say, the boundaries fixed by the royal decrees of the Spanish monarch, establishing the civil jurisdiction of said provinces.

The fact is admitted in the political constitutions of Honduras enacted in the years 1825, 1848, and 1865.

The treaty of 1845 was not carried out because of the deliberate purpose of the Government of Honduras of not complying with its provisions, as is clearly shown by the examination of the minutes of

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the work done by the Joint Commission in 1847, as well as by the fact that the Commissioners of Honduras abandoned their posts and in so doing gave out the emphatic declaration contained in the note written from Atulapa to the Guatemalan Commission, October 24, 1847, in which it is stated that "their Government, by resolution of the 13th instant, replying to their inquiry as to the construction of the first part of Article XIII of the Treaty, had said that the aforesaid article must be construed only as regards the unsettled portions between said territories, not formerly occupied by inhabitants of one or the other State, inasmuch as no agreement as to the transfer by treaty could be made of such territories as were occupied before their independence, because neither Government had authority therefor."

Consequently both States remained as before in possession of the territories occupied by each at the time of their independence, i. e., Guatemala, west of the Meredon Range, Grita Gallinero, Espiritu Santo and Omoa; and Honduras, the foot of the same range on the eastern slope.

No doubt could be entertained nor any discussion whatever as to the location of both countries. The dispute was as to the control of the territory lying between the western slope of the above-mentioned range and the Ulua River, a territory to which Guatemala was entitled by the decrees of the Spanish Sovereign, and which Honduras wanted to retain, notwithstanding said provisions of the Crown.

The field of discussion was therefore plainly set out. Honduras has already recognized this by many acts, and it suffices to examine Byrne's map, which is sold and published by official authority, and to read the geography of Mr. Robustiano Vera, dedicated to Dr. Policarpo Bonilla in his capacity of President of Honduras, to be convinced that Honduras has at all times considered that its boundaries extend as far as the eastern side of the Range, and no farther.

The development of the cultivation of the banana on the northern coast of Guatemala and the improvement and importance gained by those lands with the opening of Puerto Barrios, and the construction of the Northern Railroad, caused the Honduran Government to advance claims that it has never entertained before, and to encroach upon the belt that was not under discussion, lying to the west of the range. Such encroachments and claims have been growing daily, to the extent of granting, without any scruple, certain concessions to the "Cuyamel Fruit Company" of lands not belonging to Honduras, with the sole object of creating certain rights in a foreign corporation, in the belief that this step may safeguard such attempt against Guatemalan property; and, moreover, by extending its ambition of

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territorial control as far as the frontier of Belize, against all rights and against all historical precedents, because at no time had Honduras ever been conterminous with the present British colony. This fact is so evident that England, without the least protest from Honduras, negotiated with Guatemala the treaty for the cession and boundaries of the territory of the colony, and not with Honduras, which has never been considered by England as neighboring State.

This policy of territorial encroachments, followed by successive Chanceries of Honduras, led the Guatemalan Government to the necessity of making an effort to stop such encroachments, and to this end it subscribed with its opponent, first, the treaty of 1895, which—by no omission on the part of Guatemala—lapsed without any results being attained; and later that of 1914, which is the present basis for the solution of the controversy. Guatemala has also been compelled to maintain the indispensable contingent of force to prevent the continued advance into its territory, with manifest detriment to its treasury and the general interests of the country.

TERRITORIAL RIGHTS OF GUATEMALA.

In the life of peoples, succeeding events have a logical connection, and it is not possible to accept the sudden advent of a right, or any other occurrence, as a sporadic event without any preceding determining cause on which it is based, or in which it finds an antecedent.

The rights of Guatemala have their basis, and its formation and delimitation as a Province has also had its origin.

The first act that laid out such general basis is the title granted by the King to Don Pedro de Alvarado as Governor, comprising within the Province under his governorship the city of Santiago de Guatemala, with the lands of Incatan and Sinacatan, Tecuepanpuyamatlan, Acala, and Cuistepeque, with all appertaining thereto. This title was granted December 18, 1527; is included in the evidence submitted by Guatemala, and shows that at that time the Province of Guatemala extended as far as Yucatan.

About 1538 that same Don Pedro de Alvarado conquered with Spanish officers and Guatemalan men the lands stretching as far as the Ulua River. It is so stated in history and it is contained in a letter addressed by the Adelantado Don Francisco de Montejo to H. M. the King of Spain, July 28, 1587, also submitted with other Guatemalan documents.

The differences among the Governors due to the question of provincial boundaries, on the one hand, and on the other the desire of fixing territorial jurisdiction and defining the district within which the courts of justice and local governments could exercise their respective functions, moved the Spanish sovereign—taking into consideration

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the antecedents of the formation of the Province of Guatemala—to mark out, with all clearness and precision, its boundaries, and to this end were issued the royal cedulas of 1563 and 1564 establishing the extent of the territorial jurisdiction from Verapaz and Chiapa to a line extending from the Ulua River to the Gulf of Fonseca, inclusive.

The Honduran authorities refused to comply with said royal orders and did not consent to the Guatemalan Governor's taking possession of the lands lying between the eastern part of the Range and the Ulua-Fonseca line. The Spanish authorities in the metropolis, however, always considered them a part of the Province of Guatemala, as seen in the resolution of the Council of Indies, dated July 14, 1678, and the judicial report contained in the letter of the Bishop of Guatemala in reply to a rescript or cedula dated November 30, 1676, wherein it is stated that the Province of Guatemala extended at that date as far as Choluteca.

Consequently the boundaries determined for Guatemala in the above mentioned royal orders were not altered by virtue of right, and Guatemala was possessor of said boundaries when independence was proclaimed, and with such boundaries it was recognized as a sovereign nation by the mother country.

Spain, having a perfect knowledge of the provincial boundaries in colonial days, knew that Guatemala, although not in actual possession of said territory, was entitled to it, and in the treaty of recognition of 1863, textually declared that "H. Catholic Majesty recognizes as a free, sovereign, and independent nation the Republic of Guatemala, being composed of all the Provinces enumerated in her constitution in force, *and of the other territories which rightfully belong to her, or which may hereafter belong to her.*"

Honduras was never expressly recognized by Spain, which could not by means of such solemn compact, sanction an unlawful and vitiated possession. It was only a very long time afterwards and very recently in 1894 a treaty was concluded between the two, not of express recognition, but simply a treaty of peace and amity.

SOLUTION OF THE CONTROVERSY IN THE LIGHT OF THE TREATY OF 1914.

According to the provisions of the treaty in force, in order to determine their common boundaries the two contracting Governments, after the Mixed Commission shall have presented their report, shall give their consideration to the observations and studies of the said Commission, and to the lines marked in public documents not contradicted by others of the same nature and of greater force, giving to each the value corresponding to it according to its antiquity and juridical efficacy; the extent of the territory which formed the ancient Provinces of Guatemala and Honduras at the date of their

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independence; the dispositions of the royal ordinance of intendants which then ruled; and, in general, all documents, maps, plans, etc., which may lead to clearing up the truth, preference being given to those which by their nature should have greater force owing to their antiquity, or being clearer, more accurate or impartial, or for any other such good reason according to the principles of justice. Possession should only be considered valid so far as it is just, legal, and well founded, in conformity with general principles of equity, and with the rules of justice sanctioned by the law of nations.

It was also agreed in that treaty that in arriving at an agreement as to the fixing of the boundary line between Guatemala and Honduras, the respective Governments may, if they hold it to be necessary or expedient, adopt the system of equitable compensation, bearing in mind the rules and usages established in international practice.

The question, therefore, in accordance with the treaty, is a question of domain; the de facto possession can not and must not be taken into consideration.

The treaty established at the same time the precedence to be given to the evidence or factors in the justification of right. The representative of Honduras accepts such precedence, and has so stated in his memorandum of May 24 and the rejoinder of June 20 of last year. Therefore, let us appraise in the order stipulated the value of the factors which are to determine the territorial rights of both countries.

Such factors are the following:

(*a*) *Observations and studies of the Joint Commission.*—All the arguments submitted and substantiated by the Guatemalan delegation in its several writings show that said studies can not be admitted as proper for the determination of this case, thus rendering valueless the documents Dr. Bonilla has filed bearing on the subject. The reasons therefor may be epitomized as follows: The work of the Joint Commission was not in accordance with the treaty of 1895, as it should be; it is incomplete; it has not been submitted to the respective Governments nor by them approved; an agreement was never reached between the Commissioners themselves.

(*b*) *The lines marked out in public documents not contradicted by other documents of a similar class but greater weight, giving each its proper value according to its antiquity and juridical value.*—To this class belongs the royal order of 1563, determining the boundaries of the Province of Guatemala, confirmed and completed by that of 1564, to which the delegate of Honduras has endeavored, but in vain, to oppose that of 1745 appointing Don Juan de Vera Governor of Honduras. This last-mentioned cedula is not of a similar class to the one offered by Guatemala, *as it does not fix boundaries*, but only

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grants de Vera special and transitory administrative faculties over a portion of Guatemalan territory, and, moreover, it was expressly abrogated by the royal rescript of January 3, 1747, appointing Don Francisco Cajigal de la Vega Governor of Guatemala.

It has been established already that the boundaries fixed for Guatemala by said royal orders are: "From the Bay of Fonseca, inclusive, and the Ulua River, inclusive, with the towns of San Gil de Buenavista and Gracias a Dios, and the Provinces of Verapas and Chiapa."

(*c*) *The comprehension of the territory constituting the Provinces of Guatemala and Honduras at the time of their independence.*—This comprehension of territory, in accordance with the general principles of South American public law, as well as the letter and the spirit of the treaty in force, must be determined in conformity with the titles of property, which are the only cedulas marking out boundaries issued by the Spanish monarch, i. e., those of 1563 and 1564. But since possession, be it peaceable or forced, prolonged or eventful, consented to or rejected, admitted or refused by inferior authorities, lacks for this reason any legal character and force, in view of the prior existence of real and perfect titles of property, such as the cedulas of 1563 and 1564, said possession does not fulfill the requirements that the treaty of 1914 established as essential in order to be considered.

All this suffices to invalidate the land titles which the delegate of Honduras submits in 225 printed pages, in the third volume of his evidence, and it also suffices to leave aside any other documents submitted to establish mere possession.

It is not amiss to state that Guatemala also has a great number of land titles, with this circumstance in their favor, that they have been issued by virtue of the right growing out of actual domain and not due to the fact of mere possession, as in the case of Honduras. Guatemala, however, abstained from submitting them so as not to appear as disregarding the conditions of the agreement, an act to which Guatemala rightfully objects.

(*d*) *The provisions of the royal ordinance of Intendentes.*—These ordinances do not determine boundaries; they merely establish the principle contained in the ordinance of Barcelona, that an endeavor should be made to harmonize the limits of the civil and the ecclesiastical jurisdiction to the end that where the one had been established the other would be known; in other words, a general rule was given in the cases when one jurisdiction had been established and not the other. So, therefore, since the royal orders of 1563 and 1564 had determined the civil limits of the Provinces of Guatemala and Honduras, the ecclesiastical jurisdiction should be made to harmonize with such limits.

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(e) *Documents, maps, plans, etc.*—In respect to this kind of evidence it must be said that they are absolutely excluded from the question at issue, since according to the enumeration in the treaty precedence is given to documents defining boundary lines. As the latter exist, all others are irrelevant, and thus the affirmations of historians, geographers, and literateurs, travelers' impressions, and maps, letters, notes, telegrams, etc., etc., forming the bulk of the documentary evidence submitted by Honduras, lack in the present case all legal force and value.

In conclusion, it can not be gainsaid that, for the determination of the boundaries between the Republics of Guatemala and Honduras, the fundamental bases are the royal orders of the Spanish sovereign issued in 1563 and 1564, which fill all the requirements demanded by the treaty of 1914.

In conformity with the royal decrees so often mentioned Guatemala is entitled to extend its jurisdiction as far as the Ulua River and Fonseca Bay, inclusive. However, prompted by a spirit of conciliation and friendship, and aware that Honduras has acquired interests in that portion of the territory extending between the eastern slope of the mountains and the Ulua-Fonseca line, Guatemala is willing not to push its claim to that extreme, and accepts the boundary formed by the crest of the range, which, because of its incomparable geographic conditions, seems to have been placed there by Nature for that very purpose.

The Guatemalan Delegation, under instructions from its Government, has stated that to that extreme its legitimate claim may be reduced, but that it will not be possible to make any further concessions because its political and economic interests do not at all permit it.

In effect, it suffices to examine the vital interests that Guatemala has created in the belt lying between the Range and the Motagua River, and to consider what this belt means for the ulterior development and prosperity of the country, to be convinced of the right and justice of Guatemala's position in the matter.

In the above-mentioned belt lies the Inter-oceanic railway, the result of over a quarter of a century of stubborn efforts and constant sacrifices, which made possible the cultivation and exploitation of the inhospitable region of the coast, which, because of these improved conditions, Honduras now attempts to take away from Guatemala. This railway extends along the Motagua River, and is the main artery of the economic and administrative system of Guatemala, offering easy and rapid access to the markets of the United States and Europe, being, moreover, a strategic line which enables the Guatemalan Government to maintain public order within the Re-

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public, and affords protection against the cupidity of its neighbors. It is through this line that the capital is connected with Puerto Barrios, the only outlet to the Atlantic the country now has, a town which, due to the unceasing efforts of its inhabitants, has become one of the most healthful and progressive ports of the Central American littoral on the Gulf. There are also within that belt the bountiful and productive banana plantations to the cultivation of which, under the protection of the Government, foreign companies and native planters devote their energies and capital, with such a wonderful success that in the period of ten years, the exports of the product increased from eight hundred to ten million bunches. Finally, through that belt flows the abundant Motagua River, navigable for a good portion of its course and subject to canalization throughout its entire length. This stream, which is essentially Guatemalan and as important to the country as the Mississippi to the United States, rises in the Department of Quiche, flows a few miles from the capital, crosses the Departments of Chimaltenango, Guatemala, Progreso, Zacapa, and Izabal; at no distant future it is destined to irrigate the extensive valleys of Zacapa, turning them into great marts of production and wealth, and to become the most economical and safe waterway that commerce and agriculture could ever desire. Honduras, on the other hand, because of the above-stated facts, would not derive the slightest advantage from the joint ownership of a portion of the river and its mouth, but on the contrary would invite the animadversion and resentment of a people which would find itself wrongfully dispossessed of its property and affected in its most vital interests.

Should Guatemala consent that the boundaries be drawn either at the Motagua, or any other point between this stream and the crest of the Range, its security and independence would be most seriously jeopardized as its fundamental political and economic interests—which, as has already been stated, are represented by its railway, its seaport, its valuable agricultural enterprises, and the Motagua River—would be left at the mercy of Honduras, in whose hands would rest the power to interrupt, whenever it pleased her, the current of national life. It should be borne in mind, also, how difficult, not to say impossible, would be the task of guarding such an extensive frontier and the danger created by having forces and authorities of both countries, one in front of the other, of producing misunderstandings and friction, incompatible with the preservation of peace and harmony, by all so earnestly desired, a state that would produce the lamentable results of separating forever two sister nations, which by the laws of Nature and in their own interest should go together toward the realization of their respective destinies.

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Guatemala does not ask, nor does it claim, anything but that which is absolutely indispensable to insure its future, i. e., to remain within the geographic frame of its own territory, which on the Honduran side consists of that admirable chain of mountains which has been and is its natural, necessary, and traditional boundary.

As further evidence that from no possible standpoint is Honduras in need of said belt of territory, it is proper to remember that said Republic has a territorial extension of 120,000 square kilometers, with a population of 650,000 inhabitants, or a density of 5.42 per square kilometer, while Guatemala is only 109,960 square kilometers in extent, with a population of 2,098,000 inhabitants, giving a density of 16.34 per square kilometer. Under the present status quo the coast of Honduras on the Atlantic side measures 745 kilometers and that of Guatemala 185 kilometers, which, if calculated in a straight line, will scarcely reach 100 kilometers, and Honduras has, besides, many small streams and ten rivers navigable up to about fifty leagues into the interior of the country, such as Chamelecon, Ulua, Lean, Aguan, Limones, Tinto or Posesion, Paya, Platano, Patuca, and Segovia in part. Guatemala in that region has only the Rivers Sarstoon, Dulce, and Motagua. Honduras enjoys the port of Omoa, a well-sheltered bay, safe at all times, capable of accommodating 25 ocean ships and other minor ships and other minor craft; Puerto Cortes, larger than Omoa, with a large trade; Tela, having a considerable maritime trade, as it is the outlet of a very important banana zone; Trujillo, a large, beautiful bay receiving the waters of the Maxagual, Vinas, and Cristales Rivers. Between Trujillo and the mouth of River Lean is Playon del Triunfo de la Paz, a deep cove lying to the southwest and receiving the waters of the Cangrexal, Paleteca, and Marias Rivers, and finally Puerto Triena, Puerto Sal, and others of lesser importance. Guatemala has Livingston, Estrada-Cabrera, and Puerto Barrios, which have already been described.

From the foregoing the logical deduction is that Honduras has no geographical, political, or economic need of the zone or belt referred to, which, on the other hand, it would be impossible for Honduras to control, because it is separated by a range of mountains, almost inaccessible during the rainy season, from the Honduran centers of population and government.

There is still another consideration worthy of being taken into account in establishing a boundary line between two countries. It is well known that in circumstances like the present one, mountains have always preference over rivers, because of their conditions of stability and security, so much so that it is only in cases where no orographic frontier can be made use of, that a hydrographic boundary is chosen. Publicists all agree on the expediency of applying

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this precept of international law, as stated in the award of the King of Spain in the boundary question between Nicaragua and Honduras, and in the experience of Nations grave difficulties have arisen from hydrographic boundaries when they have been adopted by force of necessity. The Chamizal controversy between the United States and Mexico is an instance of this fact, and the disagreement of Nicaragua with the award referred to is still another instance. A well-considered exposition of the grounds upon which this principle rests is found in the annexed extract from a study in political geography by C. B. Fawcett, entitled "Frontiers," which demonstrates the importance of selecting the natural barrier furnished by a mountain range whenever that is possible. Fortunately in the present case there exists a chain of mountains in the very location where the delimitation is to take place.

The importance of a natural barrier as a boundary for strategic as well as economic reasons was emphasized by President Wilson in the memorandum on the Adriatic situation presented by him to the Italian delegation at the Peace Conference in Paris on April 14, 1919, in which he said:

> It is commonly agreed, and I very heartily adhere to the agreement, that the ports of Trieste and Pola, and with them the greater part of the Istrian Peninsula, should be ceded to Italy, her eastern frontier running along the natural strategic line established by the physical conformation of the country. Within this line, on the Italian side will lie considerable bodies of non-Italian population, but their fortunes are so naturally linked by the nature of the country itself with the fortunes of the Italian people that I think their inclusion is fully justified.

The supreme importance of a natural barrier as a boundary is that it makes for peace between the adjoining nations and as advocated by President Wilson at the Peace Conference in Paris all nations should "accept without reservation the principle that the peace of the world is superior in importance to every question of political jurisdiction or boundary."

In this connection attention is called to the book on Political Frontiers and Boundary Making, by Col. Sir Thomas H. Holdich, M. C. M. G., K. C. I. E., C. B., D. Sc., vice president of the Royal Geographical Society, published in London in 1916. In the introduction to this work the author says:

> Believing that the first and greatest object of a national frontier is to ensure peace and good will between contiguous peoples by putting a definite edge to the national political horizon, so as to limit unauthorized expansion and trespass, I have endeavored to show (I fear but crudely) what is the nature of a frontier that best fulfills these conditions in practice.

In demonstrating this point, he says, at page 147:

> Mountains, watersheds (or divides), watercourses, and rivers, lakes, and deserts figure largely in the political geography of the globe as indications of

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lines of partition between nations or communities, which may not be overstopped by unlicensed expansion of territory on either side, or may not be crossed without toll being taken from the traveller. And of all these natural features a definite line of watershed carried by a conspicuous mountain ridge, or range, is undoubtedly the most lasting, the most unmistakable, and the most efficient as a barrier.

And again, at page 154:

A convenient range of mountains so disposed by nature as to present the opportunity for utilizing its crest in the delimitation of a political boundary does not always occur, and the majority of such boundaries have to depend on other natural or artificial means of support. Failing a definite uplifted watershed, the ordinary divide between the heads of the minor affluents of river basins is a useful alternative. Its advantages are those of permanence, definiteness, and economy, even if it presents no advantage from the fact that a divide usually represents a certain command in altitude which would render it important as a military feature.

And again, at page 157:

From the point of view from which all frontier boundaries must be critically examined in these days, viz, its efficacy as a barrier, rivers must be regarded generally as a failure. One great lesson that the war with Germany has taught us is that rivers in these days are but feeble checks to an advance compared to mountain heights.

The Guatemalan Delegation, both in the arguments submitted and in its manner of proceeding in this case, has amply shown that the Guatemalan Government is not seeking either territorial expansion or a hegemony; that now, as in the past, it harbors the most cordial sentiments toward Honduras, whose prosperity and aggrandizement Guatemala cherishes as much as its own, and that, notwithstanding its indisputable rights already established to the territories extending east of the range or cordillera, Guatemala is ready to make any concessions compatible with the vital interests and the security of the country, and which will not constitute a menace to the future peace and tranquillity of Central America.

CHANDLER P. ANDERSON,
For the Guatemalan Mission.

OCTOBER, 1919.

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ANNEX TO SUMMING UP SUBMITTED BY GUATEMALAN MISSION.

FRONTIERS: A STUDY IN POLITICAL GEOGRAPHY,

By C. B. FAWCETT, B. Litt., Oxford, M. Sc., London.

(Pages 54–58.) A river, as a boundary, possesses the one great advantage of being easily recognizable, and hence of needing no demarkation. This advantage is particularly valuable under primitive conditions and in thinly peopled or unoccupied territories, where a recognizable limit is needed and a precise and costly demarkation is undesirable or unnecessary. Some of the North American river boundaries seem to be inheritances from this stage of development. But against this advantage there are very great disadvantages associated with the adoption of rivers as boundaries between civilized States. A valley is a natural unit; and as the land becomes fully occupied the river tends to become the axial line of an area of dense population, and so a place of frequent intercourse in trade and social life; so that the peoples of its banks become more or less assimilated to one another. Very few rivers form linguistic or cultural divides—the Danube between Romania and Bulgaria is almost the only prominent instance. The unity of the valley is aided by the fact that the easiest and, since they pass through the areas of dense population, the most profitable lines for roads and railways lie along it. Railways border both banks of the Rhine from Basel to the delta.

With the advance of civilization it becomes essential to control the course of the river, to drain its bordering marshes, to deepen the channel here and remove obstacles there so as to facilitate the clear flow of the waters and navigation. And in some cases the supply of water power, or of water for town supply or for use in irrigation is important. But if two States share the control of one river these matters may each and all become sources of friction between them. The river is one. To strengthen one bank, or deepen the channel, or take out water at any one place affects the current, and so disturbs the conditions at the other bank, and both up and down stream from the place where it is directly modified. The natural migration of the meanders becomes a source of political complications. Many people have heard of the Chinaman who went peacefully to sleep in his home within a bend of the Murray in Victoria, and woke to find himself a resident in New South Wales because of a shift of the river, and of how he was promptly charged with his failure to pay the poll tax due on his entering the latter State. In the United States the regulation of rivers which flow between States, and of some others,

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is the duty of the Federal Government, because only in that way was it possible to avoid disagreements among the States concerned. Such disputes may be readily settled between divisions of one State; but where the river boundary is international there is no superior court of appeal, and their recurrence is likely to lead to attempts to unify the control of the valley by a war of conquest.

Where the water is used for irrigation on a large scale the physical unity of the valley is still more strongly emphasized in its reactions on the inhabitants. The rulers of Mesopotamia and Egypt have always sought to control the upper valleys of their rivers, so as to be in a position to exert complete control over the supply of water which is the life blood of any civilization in those countries. Control of Sind is incomplete without control of the Panjab; since an increase in the amount of water used in the upriver province involves a decrease in the available supply downstream. Differences in regard to the allotment of the water and consequent friction are likely to arise wherever more than one State has a claim on the water-supply of one river system for purpose of irrigation. In southeastern Australia the States of New South Wales, Victoria, and South Australia found it necessary to take concerted action in controlling the Murray irrigation systems, for which the Commonwealth Government is now chiefly responsible. And the United States has had some difficulties on both the land boundaries of its semiarid region in respect to the use for irrigation of the waters of the Colorado and the Rio Grande and of some of the streams which cross the Canada-United States line west of the Lake of the Woods.

In the vast majority of cases the drawbacks of a river boundary for a civilized state in a settled and populous land far outweigh the advantage of its easy recognition. Few such boundaries have survived for any long period. As an indication of the limits of its territorial claims and responsibilities an expanding power may fix on a large river as its nominal boundary, but in such a case the river is rather a base for the defense of the frontier or for further conquest than a settled limit. The Rhine and Danube boundary line of the Roman Empire forms the classic instance. Both rivers were primarily regarded as marking the limits of Roman administration and as bases for the defense of the Empire. Roman influence and power extended far beyond them at its maximum. And neither river has remained a boundary, either linguistic or national, except where the marsh belt of the lower Danube adds a zone of separation to the river line. On the other hand, the Gallic-Roman tradition has often led to a claim that the Rhine is the "natural" northeastern limit of France, and has helped to foster French ambitions to reach that river. A somewhat similar instance was the "military frontier"

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of the Austrian Empire against the Turk along the Sava and the Danube, which led to these rivers forming the southern boundary of Hungary, though the people of the valleys are Slavs.

Such river boundaries are usually only temporary expedients. The Amur is still nominally the dividing line between Russian and Chinese territory in the Far East, but in fact the basin of that river is a frontier region. In it Russian military and political power is dominant; but the establishment of a settled government has led to the immigration of many Chinese, on both sides of the river, and the valley has now a much larger Chinese population than before, in spite of some attempts to discourage such immigration made by the Russian Government.

(Pages 100–101.) Besides these tendencies toward precision of boundary lines and to the coalescence of political and national boundaries there is a third tendency to be noted. This is the tendency to place political frontiers in natural zones of separation. This particular tendency had much freer play in the past than now. Where settlement is almost complete, and states have become definite, as in western Europe to-day, there is little scope for it. So long as the nations remain distinct some frontiers will be frontiers of contact. But the frontier of separation, where the boundary line is drawn along a natural barrier in a thinly peopled area, so obviously minimizes the chances of friction and the temptations to aggression, and so makes for the greater stability of the state, that the desire to reach such a frontier has been the cause of innumerable wars; and its attainment has often removed a constant source of friction. For France the final recognition of the Pyrenees (in 1659) and of the Alps (in 1859) as her frontiers, in each case placed a zone of almost uninhabited territory and a difficult mountain barrier between her and her neighbors, and so set a definite visible limit to the expansionist ambitions of her rulers and Chauvinists. The traditional ideal of the "natural frontiers" of France as the sea, the Pyrenees, the Alps, and the Rhine, was thereby satisfied in so far as it aimed at attaining natural barrier frontiers.

(Pages 102–103.) The ideal frontier would be one which would minimize all risks of friction and war between the states it separates. It should also lend itself to the needs of a strong defense on each side, while it should not prevent friendly intercourse across it. These requirements are best satisfied by zones of distinct natural barriers or obstacles to human movement and occupation, where these exist between regions favorable to the development of states and nations. As such zones must be areas of relatively scanty population they form a break in the distribution of the people, and so a convenient place for the transition from one state to another.

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And while such frontiers tend to hinder frequent intercourse, in practice the freedom from friction and the relative security they offer has been sufficient to more than counterbalance this restriction. The fact that Europe possesses many such frontiers of separation, sufficiently strong to give moderate security but not so difficult as to prevent frequent human intercourse, has been a very important factor in the development of that diversity of regional cultures in a unity of European civilization which has placed its peoples in the forefront of human progress. Where there is no distinct zone of separation it is usually the case the watersheds provide the nearest approach to it. A boundary which follows the divides as far as possible is least likely to lead to the severance of small natural regions of human occupation, such as a valley or a group of connected valleys. Also, since to cross such a boundary an advance from either side must be made uphill, it is more favorable to defense than most other lines in such country; though from this point of view the relation of the divide to the hills in its neighborhood is of great importance.

At the end of 1918 Mr. Boaz Long, acting for the mediator, reviewed the documents published above, and all other evidence submitted, following which he prepared, for the confidential information of the Secretary of Staate, the recommendations of the mediator, which it was hoped might serve as a basis for the settlement of this controversy.

The Honorable Robert Lansing, Secretary of State, however, felt that it would be advisable to acquire information in addition to that which had been submitted, before making a final recommendation, whereupon, he addressed an identic note to the chiefs of the Honduran and Guatemalan Boundary Mission, under date of December 3, 1918, of which the following is a copy:

DECEMBER 3, 1918.

HONDURAN-GUATEMALAN BOUNDARY CONFERENCE.

SIR: I regret to say that owing to the very brief period betweeen the submission of the final documents in the Honduran-Guatemalan boundary negotiations and the date of my departure for Europe it will be impossible for me, before returning, to give this case the attention necessary to justify me in suggesting, pursuant to your request, a basis of agreement for the settlement of this controversy. I have, however, examined the case sufficiently to foresee that before reaching a decision further information will be required, in addition to that already submitted, showing more particularly the topographical conditions along the frontier, and also the extent and character of the interests of the respective countries which are likely to be affected by the settlement of this boundary.

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the mediator with any additional information which he might desire, I venture to propose that the two Governments jointly, or separately, arrange to procure this information under the direction of a representative of this Department, in order that it may be available for use upon my return.

Accept, sir, the renewed assurances of my highest consideration.

ROBERT LANSING.

It was apparent from this note that the Secretary of State desired two things, namely, that a topographic survey and also an economic survey should be made as suggested in the hope that it would provide the additional information needed.

The Chief of the Guatemalan Boundary Mission at Washington promptly accepted the suggestion (see his note dated December 7, 1918) and the Chief of the Honduran Boundary Mission demurred on grounds set forth in a memorandum dated December 11, 1918, which was not handed in until January 9, 1919.

[Translation.]

SPECIAL MISSION OF GUATEMALA,
Washington, D. C., December 7, 1918.

MOST EXCELLENT MR. SECRETARY OF STATE: I had yesterday the honor to receive the kind communication dated the 3d instant, addressed to me by His Excellency the Secretary of State Mr. Lansing, and stating that owing to the short time which passed between the delivery of the final papers in the boundary negotiations between Guatemala and Honduras and the date of his departure for Europe, it will be impossible for him to give to the case before his return the attention needed to suggest the basis of an arrangement which might bring the controversy to an end. He is further pleased to state, that from the examination and study he has made of the question, he infers the necessity of having further information supplied with regard to the topographic conditions of the border and the extension and character of the interests of the countries concerned which will probably be affected by the demarkation of the boundary, and he is, therefore, pleased to propose that the two Governments arrange jointly or severally to supply the said information under the direction of a representative of the Department of State so that it may be ready for his consideration on his return.

My Government, which sees in the measures suggested by the Most Excellent the Secretary of State Mr. Lansing, and proposes to arrive at a solution inspired by the spirit of true impartiality and justice which has always actuated the policy upheld by the Government of the United States, accepts at once the plan as proposed and offers through me its effective and earnest cooperation in all that may be necessary to achieve the high and important ends that are sought.

Having thus answered the note which the most Excellent the Secretary of State Mr. Lansing was pleased to address to me, I gladly avail myself, etc.

(Signed) LUIS TOLEDO HERBARTE.

His Excellency, Mr. FRANK L. POLK,
Acting Secretary of State
of the United States of America.

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[Translation.]

Special Mission of Honduras to the United States of America.

[Memorandum delivered to the Hon. Boaz Long, Jan. 9, 1919.]*

The representation of Honduras on the boundary dispute with Guatemala received the note which Mr. Robert Lansing, Secretary of State, signed on the third of this month prior to his departure for Europe.

He says therein that, owing to the short time elapsed between the presentation of the latest documents in the boundary negotiations between Honduras and Guatemala and the date of his departure for Europe, it would be impossible for him to give, before his return, the attention to the matter which would justify a suggestion of a basis for the settlement of the dispute; that he has, however, examined the case sufficiently to foresee that before arriving at a decision, fuller information will be needed in addition to that already submitted and showing more particularly the topographic conditions along the border and also the extent and nature of the interests of the two countries, which would probably be affected by the settlement of the said border.

And he adds that in order to waste no time during his absence, and acting upon the suggestion made by the representatives of both Governments in offering to supply the mediator with any additional information he might desire, he ventures to propose that the two Governments jointly or severally prepare to furnish that information under the direction of a representative of the department so that he may use it on his return.

The proposition comes in confirmation of the earnest endeavor of Mr. Lansing and of the Government of the United States of America to attain the end that the offered mediation be crowned with a happier result through a decision in accordance with justice as is due to the high renown of the Government that will pronounce it; for it will tend to bring to an end a question which keeps two brotherly peoples in a state of unrest, and will establish a good precedent which will be of use, not only to the countries concerned, but also to all those who have pending boundary questions, especially those in this continent, and enthuse them to settle them in the same manner.

The representation of Honduras has the satisfaction of declaring that, taking the same view of the case, it has for its part done all that lay in its power during the course of the mediation to arrive at a happy result; and prompted by that purpose, it takes the liberty of putting here on record some remarks tending to insure the happy outcome of the proposition contained in the above-mentioned note; which remarks, it was, unfortunately, unable to submit to Mr. Lansing in person.

First. It is not determined what is the frontier along which the representatives of the mediator Government and of the Governments concerned shall operate.

The boundary claimed by the parties to this conference are, by Guatemala, a line running from the Ulua River to the eastern end of the Gulf of Fonseca; and by Honduras, from Cerro Brujo to the Managuà River and the Motagua River, and thence along the shore of the Gulf of Dulce to the Sarstoon River, which forms the boundary with Belice. Those two lines are very wide apart; along the Atlantic Coast, the distance from the mouth of the Ulua to that of the Sarstoon is not less than 125 kilometers; from the first named point to the said gulf, 300 kilometers; more or less; and from this gulf to Cerro Brujo, about 270 kilometers. The land lying between those lines covers about 3,000,000 hectares; that is to say, about 32,000 square kilometers.

* This memorandum although dated Dec. 11, 1918, was not presented until Jan. 9, 1919.

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If the commission were called upon to survey in the manner indicated all that expanse of that territory the cost of the contending Governments would surely aggregate hundreds of thousands of dollars, which I doubt their ability to pay, and, what is worse, would require several years of labor. In that event, the work would not be over until the present presidential term of Mr. Wilson expired.

Second. If, in order to avert this objection, the honorable Mediator should instruct his representative to conduct the work in a more reduced zone, he would have to prejudge the question without previous knowledge, or the acceptance of the judgment of the parties concerned, and the governments could not give appropriate instructions to their representatives on the commission. These representatives, therefore, might create obstacles and cause delays in the progress of the work, and in every likelihood they would not be terminated until long after the return of Mr. Secretary Lansing. Or something worse might happen that so much work, loss of time, and disbursement of money would remain fruitless because one or perhaps both of the parties might not accept the line which the mediator would indicate on the basis of the studies of the commission.

We already have precedents in this respect. The Mixed Boundary Commission worked on what it considered to be an established border between the two countries in the years from 1908 to 1910 and the representation of Guatemala has claimed nullity of that work in this conference, because it says that it was not carried on on the true frontier, that which it reclaimed for the first time in the presence of the mediator; and that in the face of the fact that the work was done with the previous, present, and subsequent knowledge of both Governments and was declared to be valid by the Convention of 1914. And further, the Government of Guatemala forbade in 1910 and 1916 the engineer of Honduras to work on territory lying west of the Motagua, notwithstanding the express authority granted to that effect by a decision of the mixed commission. These cases might occur again.

Third. If the mediator, in order not to prejudge the question, should leave it at the option of his representative to determine the zone of the study, there would be other objections to be added to those noted as being in existence. Owing to the nature of the work, the members of the commission would be engineers and, therefore, the examination of evidence furnished to determine the rights of the parties and find the lawful line would not be within their calling, and it might happen that they would not survey the zone within which the mediator might have later to lay down the dividing line. And if, in order to supply that deficiency, lawyers should be attached to the commission, the conference would be transferred to the frontier where the created antecedents could not be had and the strict character of the mediation could not be maintained, since the mediator would not then be the Secretary of State, and therefore the probability of arriving at a decision would be lessened. All these objections would be removed if the honorable mediator completed a study of the question and, with the evidence submitted by both parties before him, would define what, in his opinion, is the lawful boundary line between the two countries, or the main points of that line and the way of connecting them, thus meeting the request pressed by both to the effect that the previous definition be made. The maps presented by the parties, which agree in the main, contain sufficient data for that definition in connection with the documents and proof of every kind that have been submitted. That line, once accepted by the bodies concerned, as I have no doubt it will be, because it would surely be defined in accordance with justice—the line would be sought which equity and the convenience of the two countries would suggest would

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surely be the most clear and stable, taking equally into account the created legitimate interests and more particularly the feasibility of way of communication, particularly railways, which would permit to improve the territory allotted to each party when the dividing line is fixed and subject to the rules of compensations in accordance with what the parties stipulate and demand.

The following advantages would attach to this course of procedure:

(*a*) The mediator would have a fixed basis upon which to recommend to his representative the study of one or more lines which, in his opinion, would combine the required conditions and enable him to select that line which he would consider to be the best final frontier.

(*b*) That the mediator might, in that way, charge the representative with the duty of looking into the extent, worth, and quality of the parts of land which each country would have to cede when the final line is fixed and thereby would be enabled to determine equitably the compensations of another nature which ought to be made if it can not be done in the way of territory.

(*c*) That the work could be completed in a comparatively short time during the forthcoming dry season which lasts until May, since the survey would cover but a comparatively small zone on both sides of the lawful line, so that on his return Mr. Lansing would already find at hand the data which he said he needed to define the final border line which forms the party of this mediation.

(*d*) That the legal line being fixed each party could duly appreciate its gain or loss, brought by the conciliation line and the offered compensation, whereas without this line being previously fixed each party might claim that it is giving everything and receiving nothing.

(*e*) That the pride of either people would not be hurt by an appearance of relinquishing part of its legal rights to a demand of another but to an impartial and equitable decision.

(*f*) That even in the worse event that the defined legal line be not accepted by one or the other of the parties, the advantage would have been gained of having saved time, labor, and money, and of seeking at once, before these conferences dissolve, another way to a settlement of the dispute and thereby avert the dangers which go with the delay in deciding this vexatious question.

The representation of Honduras wishes to repeat that in offering the foregoing remarks, its purpose is to assure, as far as possible, the favorable outcome of the proposition of Mr. Secretary Lansing and to place itself in a position to recommend on the best grounds to its Government to accept these and to be enabled at once to return a definite answer to the proposition.

It will also take the liberty of calling the department's attention to the urgent necessity of averting the constant danger created by the stay during the last year of forces of Guatemala on territory exclusively owned by Honduras which gave birth to the benevolent tender of the present mediation. There are records in the department to confirm the justice of these fears, for there have arisen fresh difficulties while these conferences were held which have been made known to the department.

WASHINGTON, D. C., *December 11, 1918.*

Late in January, 1919, the galley proofs of the translations of the documents were sent to the chiefs of the Honduran and Guatemalan Boundary Missions for their revision. It was then for the first time that Dr. Policarpo Bonilla, chief of the Honduran Bound-

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ary Mission, became aware that Dr. Luis Toledo Herrarte, chief of the Guatemalan Boundary Mission, had submitted to the Secretary of State the protest dated October 28, 1918. The mediator had not furnished Dr. Bonilla with a copy of Dr. Toledo Herrarte's protest earlier because Dr. Bonilla supplied, about the time the protest was received, the proofs which Dr. Toledo Herrarte claimed were unduly delayed, and because it was hoped that the latter might ultimately prefer to retire his protest. When Dr. Toledo Herrarte was consulted, however, it resulted that he wished his protest to stand as a part of the documents and that it should be printed. Dr. Bonilla thereupon delivered a note, in reply to the protest, and requested that it be published, of which the following is a copy:

[Translation.]

SPECIAL BOUNDARY MISSION OF HONDURAS
TO THE UNITED STATES OF AMERICA,
Washington, January 27, 1919.

MOST EXCELLENT SIR: Not until a few days ago did I know—from reading the proofs of the book which the State Department is preparing in English giving an account of the proceedings of the conference held under the mediation of the said department under your excellency's charge in the boundary dispute between Honduras and Guatemala—of the protest of the honorable representative of Guatemala, Dr. don Luis Toledo Herrarte, sent in a note addressed to the Most Excellent Mr. Robert Lansing, Secretary of State, in that capacity, and not in that of mediator in the controversy, under date of October 28 last. Owing to that circumstance, no doubt, and to the fact that in his reply to the note the representative of the mediator was in position to say that the fact itself no longer existed, it was deemed unnecessary to communicate the said protest to the representative of Honduras.

Yet if the above-mentioned publication failed to contain any denial from me, I fear it might be interpreted as a confession, and as I can show that the charge is unwarranted and untrue, I find myself constrained to trespass upon your excellency's much engaged attention in making the proper rectifications.

The Honorable Señor Toledo Herrarte says that in the course of the negotiations the Government represented by him has given evidence of the spirit of conciliation and harmony by which it is animated, and on every occasion displayed its willingness to arrive at an understanding and earnest desire to respond to the generous action of the United States, but that unfortunately the delegation of Honduras does not seem to profess the same principles, and from the very first session which I failed to attend without previous explanation or plausible excuse, until that date my course had been rather calculated to obscure and hamper the solution sought by them in entire good faith. And he adds that he could cite various concrete examples in support of his assertion, but will confine himself to one on account of its importance, viz, that I, as representative of Honduras, made in my memorandum of August 27, 1918, a solemn promise to produce my proofs on the following 15th of September, and that the delegation over which he presides, relying on my high word, had no objection to submitting its aim a few days thereafter; that notwithstanding the friendly steps he took with the honorable Messrs. Stabler and Long, representatives of the mediator, I did not redeem my promise, that very strange proceeding of mine causing undue delay in the conclusion of the controversy,

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serious injury to the interests of his country and, what is more regrettable, gravely endangering the happy outcome of the negotiations and threatening to foil the noble efforts of the United States Government for an amicable satisfactory settlement; that those were the reasons for his entering his respectful protest against the course taken by the delegation of Honduras and declining all responsibility flowing from the awkward situation created by such unaccountable conduct.

The representative of Guatemala is unfair in his reference to my belated attendance at, which was not absence from, the first session that was called, as on the next day, as recorded in the journal, I offered explanations which I considered to be satisfactory and were likewise considered by the members of the whole delegation of Guatemala, including Señor Toledo Herrarte, and, though it may be argued that they did this as a mere matter of courtesy, that alone would exclude any further mention of the incident.

The statement that I promised in my memorandum of August 27 to produce the proofs of Honduras on the following 15th of September is not true, as in transactions of that nature there can be no unilateral promises and the acceptance of the other party does not appear, but rather its failure to observe the date since he admits that he presented his proofs several days later (the 26th of that month). On the other hand, my offer to produce Honduras's proofs referred to by the representative of Guatemala was put in the following language: "For my part I shall be ready to present them (the proofs) before September 15 next, and they will in a general way consist of * * *" and the declaration was made in connection with a previous paragraph reading as follows: "In order that the briefs better answer their purpose they shall not be produced until both parties shall have adduced the proofs they still lack to submit them to the mediator *within the time limit set by him*." This makes it clear that I could not be delinquent in the matter of producing the proofs until the date which the mediator should sit in a conference that we did not hold; or in a simultaneous note to the two parties, which was not sent. There was therefore no occasion to trouble the Secretary of State with the matter, as a formal request in writing to the representative of the mediator that the condition put by me be met, if he wished to avail himself of my offer, was sufficient. This he could have done in submitting his proofs, but he did not do it.

The date being set, I could have lived up to the agreement in spite of the fact that the book of extracts of land titles which the American counselors preferred to have printed for the convenience of the officers of the mediation who had to examine them, was not yet completely printed I could have submitted the originals with the privilege of substituting copies later.

In sending his protest the representative of Guatemala forgot to state that at the session of June 25 he undertook to present his rejoinder not later than July 1, and I undertook to do the same, and did so, as proved by my note of that date, and as a copy of that paper was delivered to him hoping that he would give in exchange one of his, which he failed to do, he took advantage of it, and did not present this rejoinder until the end of the month and referred them to mine, which he should not have kept in his possession. Yet I did not reproach the representative of Guatemala for his delay, and much less enter any protest. I refer to this particular because if I had been guilty of the undue delay with which I am charged and which I have shown to be nonexistent, it would have been offset by that in which he indulged, and neither party had a right to ascribe dishonest motives to the other.

I will not close without calling to your excellency's attention all the evidence of the spirit of conciliation and harmony that I have shown in the course of the

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negotiations, which I am sure will have been reported to you by the representative of the mediator, and again apologizing for the trouble which I am very sorry to give you, I take pleasure in renewing to you the assurances of my consideration and respect.

P. BONILLA.

The Most Excellent Mr. FRANK L. POLK,
Acting Secretary of State of the United States of America.

[Translation.]

SPECIAL MISSION OF GUATEMALA,
Washington, D. C., March 10, 1919.

EXCELLENCY: I have the honour to refer to my note of the 7th of December, acceding, on the part of my Government, to the request of the honorable Secretary Lansing, as mediator in the Guatemala-Honduras boundary negotiation, that both these Governments, either jointly or separately, arrange to procure for the mediator certain additional information showing more particularly the topographical conditions along the frontier, as well as the extent and character of the interests of the respective countries which are likely to be affected by the settlement of this boundary.

I have received no reply from your excellency to my note and have not been advised whether the Government of Honduras wishes to join with that of Guatemala in securing the information requested by the honorable Secretary Lansing, or prefers to undertake the work separately, pursuant to his alternative suggestion. In either case it is now too late, on account of the delay already incurred, to undertake the topographical survey, because the climatic conditions are favorable for such work only from the early part of December until May. My Government is prepared, however, to proceed with the economic and political survey in so far as that is not dependent upon climatic conditions, and in order that no further time may be lost, my Government is arranging to proceed separately, as suggested by the honorable Secretary Lansing, to procure the information desired by him as to the extent and character of the interests of Guatemala which are likely to be affected by the settlement of this boundary. If the Government of Honduras desires to have this survey include the interests of Honduras, we shall be glad to have the cooperation of their representatives.

The honorable Secretary Lansing's suggestion included the designation by the Department of State of a representative to supervise the surveys proposed by him, and if, notwithstanding the impossibility of making the topographical survey on account of the advanced season, the department is still willing to designate a supervisor for the part of the surveys now contemplated, my Government would be gratified, and in that case I beg to request that you will be pleased to designate your representative for that purpose as soon as your convenience will permit.

I avail myself of the occasion to renew to your excellency the assurance of my highest consideration.

LUIS TOLEDO HERRARTE.

The Most Excellent Mr. FRANK L. POLK,
Acting Secretary of State of the United States of America.

No. APRIL 16, 1919.

SIR: I have the honor to acknowledge the receipt of your note of March 10, in which you point out that it will not be possible to conclude the topographic survey during the present dry season, but suggest that your Government is

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disposed to proceed, even though Honduras should not desire to join, with the economic survey, the conduct of which does not depend upon climatic conditions.

In reply I have the honor to say that the American Legation at Tegucigalpa has recently informed the department that the Honduran Government has expressed its approval of undertaking an economic survey at this time.

The department wishes to point out, however, that the part of the dry season remaining is rather short in which to conclude the economic survey; but being desirous of contributing in every possible way to the successful conclusion of the present mediation, it will endeavor to arrange for the organization of such an economic surveying expedition, under the supervision of the American Geographical Society. Informal conferences have already been held with this end in view.

It appears from the information hastily gotten together that the cost of the economic survey will be approximately $30,000, and the Government of the United States will be pleased to be advised whether your Government desires that the survey be commenced under these circumstances and with the understanding that every reasonable effort will be made on the part of the American Commission to conclude the work before the next rainy season begins.

Upon receipt of your reply indicating when the $15,000, the portion of the survey which is properly chargeable to Guatemala, shall be made available, the department will be pleased to communicate to you a detailed statement of the plan of the survey, which probably will be in line with the informal exchange of views expressed between us this morning.

Accept, sir, the renewed assurances of my highest consideration.

FRANK L. POLK,
Acting Secretary of State.

Señor Dr. LUIS TOLEDO HERRARTE,
Minister for Foreign Affairs of Guatemala on Special Mission,
Washington, D. C.

[Translation.]

SPECIAL MISSION OF GUATEMALA,
Washington, D. C., April 22, 1919.

Mr. SECRETARY: I have had the honor to receive your excellency's kind note of the 16th instant, in which you were pleased to say in in reply to my note of March 10 that the Government of Honduras had expressed through the minister of the United States at Tegucigalpa its readiness to start now the economic inspection suggested by the Most Excellent Mr. Secretary Lansing, and that the Department of State is consequently engaged in organizing the technical commission of inspection that is to operate under the auspices of the American Geographical Society.

Your excellency deigned to add that the cost would amount to about thirty thousand dollars, fifteen thousand of which falls to the share of Guatemala, and that when that sum is available and my Government gives its consent to having the inspection carried out on those terms, your excellency will be pleased to submit to me a detailed statement of the plan on which the commission intends to proceed.

In reply I take pleasure in informing your excellency that my Government gladly concurs in the suggestion offered by the honorable Department of State; that it places through me at its disposal its quota of fifteen thousand dollars, and, lastly, that in addition to this contribution it will take special pleasure in extending to the commissioners all the assistance and facilities they may need in the discharge of their duties.

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Awaiting the later statement which your excellency was pleased to promise, I take great pleasure in availing myself of the opportunity, etc.

LUIS TOLEDO HERRARTE.

To His Excellency MR. FRANK L. POLK, *Acting Secretary of State of the United States of America, Department of State.*

APRIL 28, 1919.

AMERICAN LEGATION,
Guatemala, Guatemala,
Mutatis Mutandis to Tegucigalpa, Honduras.

Kindly present a memorandum in the following sense to the President of the country to which you are accredited. As it is now too late to conclude a topographic survey before the end of the present dry season, the Department of State has requested the American Geographical Society to superintend the economic survey which is to be made in order to supply as much as possible of the information requested in the note of the Secretary of State addressed to the chiefs of the Honduran-Guatemalan Boundary Missions at Washington, on December three, nineteen eighteen.

The American Geographical Society has nominated Major Percy H. Ashmead as executive in charge of the economic survey. He, Sydney Blake, assistant to Dr. Pittier, an engineer, and Albert Yates, disbursing clerk, sail from New York for Puerto Barrios aboard the *Sarnamacca* April twenty-nine, nine a. m. The following-named scientists, the first four of whom have been loaned, and the other two assigned, by the United States Department of Agriculture to collaborate in this work, complete the expedition. They sailed on the *Preston* from New Orleans April twenty-six: Dr. Henri Pittier and assistant, Dr. C. B. Gilbert, economic botanist. Dr. C. F. Marbut and assistant, Dr. H. H. Bennett, representing Soils; Dr. W. H. Whitford and assistant, Dr. L. R. Stadtmiller, representing Forestry.

Guatemala and Honduras very kindly offered to have engineers accompany the scientists of the expedition; but as the economic survey will not involve instrumental surveys it is thought to be preferable to have the engineers of the interested countries accessible in order to give information which may be desired by Major Ashmead, but not to accompany the scientists during their examinations. The time and funds of the expedition being limited, it is thought that this course will facilitate the conclusion of their labors.

Guatemala has graciously offered to furnish promptly, and when needed, to the members of this expedition, whatever cooks, servants, laborers, and animals may be required, and to provide them with utensils, tools, shelter, etc., and with their subsistence, travel, and other expenses, free of all payment therefor from the funds now at the disposal of the Geographic Society. It is assumed that Honduras will desire to act as Guatemala has done in this regard. The shortage of time, however, precludes detailed arrangements and makes it necessary for the scientists to begin their labors near the section in which are situated the most important interests likely to be affected by the decision of the boundary matter. In these circumstances it has been deemed to be expedient to commence work near Amates on account of its favorable rail and water transportation facilities and to proceed thence toward the Caribbean, rather than to inaugurate the survey by first paying official visits at the capitals of the interested countries. It is hoped that the local authorities of both Honduras and Guatemala will place themselves in touch with the members of this scientific party, and provide them with the help required.

The Department of State acknowledges the repeated gracious assurances of the chiefs of the Boundary Mission and of the country to which you are ac-

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credited, that every facility will be placed at the disposal of the members of the scientific party (each of whom carries a passport and will soon be provided with a letter of authority from the American Geographical Society), which happily eliminates all probability of delays or other interruptions.

———— ————,
Acting Secretary of State.

Through a clerical error, this telegram was not sent to Tegucigalpa. Honduras however duly contributed its share of the survey funds, thereby indicating its willingness to have this work undertaken.

No. MAY 7, 1919.

SIR: I have the honor to acknowledge the receipt of your note of April 22, 1919, in which you state that your Government is willing to have the economic survey begin at this time, with the understanding that the expedition will put forth every reasonable effort to finish the work before the close of the present dry season. To this end you transmit $15,000 as Guatemala's share of the estimated cost of the survey.

The American Geographical Society graciously accepted this Department's invitation to superintend the work, and nominated Major Percy H. Ashmead as executive in charge of the economic survey. The personnel of the expedition is made up as follows: Major Percy H. Ashmead, executive in charge; Theodore Human, jr., engineer; Albert Yates, disbursing officer and secretary. The scientists, who were loaned by the Department of Agriculture, are, Dr. Henri Pittier and his assistants, Dr. Sydney Blake, and Dr. C. B. Gilbert; economic botanists; Dr. C. F. Marbut and his assistant, Dr. H. H. Bennett, representing the Bureau of Soils. That department also assigned Dr. W. H. Whitford and his assistant, Dr. L. H. Stadtmiller, to represent the Bureau of Forestry. The first three and Dr. Blake sailed from New York for Puerto Barrios aboard the *Sarramacca*, April 29 the other sailed from New Orleans aboard the *Preston*, April 26.

Enclosed please find a copy of the telegram sent by this Department on April the twenty-eighth to the American Legations at Guatemala City and Tegucigalpa. This informative document contains certain general indications calculated to facilitate the initial efforts of the expedition; but it is expected that the arrangement of the economic survey will be cared for by Major Ashmead.

Accept, sir, the renewed assurances of my highest consideration.

FRANK L. POLK,
Acting Secretary of State.

Señor Doctor LUIS TOLEDO HERRARTE,
Minister for Foreign Affairs of Guatemala on Special Mission,
Washington, D. C.

Enclosure: Telegram to Guatemala City and Tegucigalpa, sent by Department.

[Translation.]

SPECIAL MISSION OF GUATEMALA,
Washington, D. C., May 9, 1919.

Mr. SECRETARY: I have had the honor to receive your excellency's kind note of the 7th instant in which, answering mine of April 22, you were pleased to advise me that the American Geographic Society, according to the Department

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of State's request, agreed to direct the economic inspection suggested by his excellency in his note of December 3, 1918, and appointed to that effect Major Percy H. Ashmead as executive chief of the commission, which is composed as follows: Major P. H. Ashmead, executive chief; Theodore Human, jr., engineer; Albert Yates, disbursing officer and secretary. Scientific experts lent by the Department of Agriculture: Dr. Henry Pittier and his assistants, Dr. Sydney Blake and Dr. C. B. Gilbert, economic botanists; and Dr. C. F. Marbut, and his assistant Dr. H. H. Bennett, representing the Bureau of Soils. The same department further designated Dr. W. H. Whitford and his assistant Dr. L. R. Stadtmiller as representatives of the Forest Service. Your excellency added that of these persons those first named and Dr. Blake started from New York for Puerto Barrios on the S. S. *Saramacca* on April 29, and the others sailed from New Orleans on the 20th of the same month on the S. S. *Preston*.

There also came to hand the copy of the telegram sent by the Department of State on April 28 to the legations of the United States at Guatemala and Tegucigalpa, which your excellency was pleased to enclose to me. I am thereby informed that the commissioners were only given directions of a general character, the care of arranging the minor details for the success of the inspection being left with Major Ashmead.

Thanking your excellency most earnestly for that important information which I have already cabled to my Government, I take great pleasure in availing myself of this opportunity to renew to you the assurances of my highest and most distinguished consideration.

(Signed) LUIS TOLEDO HERRARTE.

The Most Excellent Mr. FRANK L. POLK,
Acting Secretary of State of the United States of America, Department of State.

The survey was concluded early in June, 1919, and the report with maps was submitted in October. A copy of this report was transmitted respectively to the Honduran and Guatemalan Missions. The report was discussed in a memorandum presented by counsel for Guatemala in December, 1919. To this memorandum the Honduran Mission replied in January, 1920. These two documents conclude the series submitted by the contending parties.

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MEMORANDUM ON THE ECONOMIC SURVEY REPORT AS TO THE EXTENT AND CHARACTER OF THE INTERESTS OF THE RESPECTIVE COUNTRIES WHICH ARE LIKELY TO BE AFFECTED BY THE SETTLEMENT OF THIS BOUNDARY.

I. The Economic Survey.

On December 3, 1918, the Secretary of State addressed an identic note to the chiefs of the Guatemalan and Honduran missions, informing them that, owing to the very brief period between the submission of the final documents in this mediation and the date of his departure for Europe to attend the Peace Conference, it was impossible for him, before returning, to give this case the attention necessary to justify him in suggesting, pursuant to their request, a basis of agreement for the settlement of this controversy. He also stated that he had already examined the case sufficiently to foresee that before reaching a decision further information was required in addition to that already submitted, showing more particularly the topographical conditions along the frontier and also the extent and character of the interests of the respective countries which are likely to be affected by the settlement of this boundary.

In order, therefore, that no time might be lost during his absence, and in accordance with the suggestion made by the representatives of both Governments offering to furnish the mediator with any additional information which he might desire, he proposed that the two Governments jointly or separately arrange to procure the desired information under the direction of a representative of the Department of State, so that it might be available for use upon his return.

The chief of the Guatemalan Mission promptly replied accepting the plan proposed by the mediator, and offering effective and earnest cooperation. The Honduran Mission, on the other hand, has never acquiesced in the mediator's request for a topographical survey, and it was not until the latter part of April, 1919, that it was possible to secure its participation in the proposed economic survey. By that time, on account of the delay incurred, it was too late in the season to undertake the proposed topographical survey; because the climatic conditions were unfavorable for such a survey after the end of May. Consequently the plan for making a topographical survey was abandoned by the Department of State, and only an economic survey was undertaken.

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On October 17, 1919, the report of the economic survey was filed with the Department of State, and a few days later a copy of this report was furnished to the Guatemalan Mission.

II. The Importance of Economic, Topographical, and Political Considerations in Settling the Boundary.

In the brief submitted by the counsel for Guatemala in the mediation proceedings, it was pointed out that by common consent of both sides the function of the mediator was to recommend the boundary line for their adoption, which, in his opinion, would best serve as a solid basis for peace and good relations between the two countries for the future, having reference to the respective rights and interests of both sides, in view of the legal, political, economic, and geographic considerations involved, including such equitable compensations as might be necessary or expedient.

It was also pointed out in that brief that both sides had recognized by common consent the advantage of fixing the boundary by means of topographic formations furnishing natural divisions or defensive barriers, and that the mediator was at liberty to make the boundary recommended by him conform, so far as possible and wherever convenient, to divisions furnished by natural formations, and it was also pointed out that for political and strategic as well as economic reasons any boundary which would give Honduras jurisdiction on the Guatemalan side of the natural barrier formed by the mountain range which runs continuously from the Atlantic coast to the Salvadorean boundary would be more likely to cause friction and discord than peace and harmony.

The important influence which all of the above-mentioned considerations must have in establishing a boundary which will make for peace and good relations between the two countries in the future was thus recognized by both sides in this mediation. This was also recognized by the mediator in taking the position that in addition to the political and legal considerations, as to which he was already informed, he would require further information about the economic and topographical conditions in the disputed territory before he would be able to recommend a satisfactory boundary, and as stated in his above-mentioned note of December 3d, that this information should be obtained by means of a survey conducted by both Governments under the supervision of the Department of State, thus assuring an impartial presentation of the facts and of the extent and character of the respective interests involved. It is fortunate that the joint action of both countries was finally secured in making the economic survey, and although unfortunately the desired topograph-

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ical survey was prevented by delays in arranging for it, for which Guatemala was not responsible, nevertheless most of the important topographical information required by the mediator can be found in the maps attached to the economic survey or in available official records.

III. The Ideal Scientific Boundary.

The proper valuation of the information presented in the so-called economic survey report in its bearing upon the economic, political, and geographical conditions which must be considered by the mediator requires that the ideal scientific boundary to be sought for should first be defined as a starting point.

In the summary already submitted on behalf of Guatemala, it was shown that a mountain range which furnishes a natural barrier between two countries is universally accepted as the ideal international boundary.

The reasons for adopting a mountain range in preference to a river or any other geographic outline are shown in that summary to be that a mountain range establishes a natural barrier on the political horizon as well as a physical separation between the domestic activities on either side, thus preventing encroachments and friction, and insuring peace and good will.

As stated by Prof. Fawcett, one of the distinguished authorities whose books on political frontiers were cited on this point in the above-mentioned summary, there has been a tendency in modern times to place political frontiers in natural zones of separation, because, although there must inevitably be some frontiers of contact, the frontier of separation is the ultimate aim whenever possible. He says:

> The frontier of separation, where the boundary line is drawn along a natural barrier in a thinly peopled area, so obviously minimizes the chances of friction and the temptations to aggression, and so makes for the greater stability of the State, that the desire to reach such a frontier has been the cause of innumerable wars; and its attainment has often removed a constant source of friction.

He says further:

> The ideal frontier would be one which would minimize all risks of friction and war between the States it separates. It should also lend itself to the needs of a strong defence on each side, while it should not prevent friendly intercourse across it. These requirements are best satisfied by zones of distinct natural barriers or obstacles to human movement and occupation, where these exist between regions favourable to the development of States and nations. As such zones must be areas of relatively scanty population, they form a break in the distribution of the people, and so a convenient place for the transition from one State to another. And while such frontiers tend to hinder frequent intercourse, in practice the freedom from friction and the relative security they offer has been sufficient to more than counterbalance this restriction.

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Dr. Holdich, another of the distinguished authors above mentioned, says:

Examples of the effective use of important mountain ranges as frontiers are abundant in the civilised world. Chief amongst them I should place the Himalayan barrier of northern India, but there are others almost as impressive and possibly even more important. The Andine divide between the Atlantic and Pacific Oceans is almost ideal in its vast extent, its imposing character and uplifted isolation, although the natural features of it are not so majestic as those which coldly embrace the Himalayan line. For more than 2,500 miles does this giant watershed divide the long strip of Chilean territory (all latitude and no longitude) from Bolivia and Argentina. * * * So far this mighty Andine boundary has proved a powerful factor in maintaining peace between the two great Spanish-speaking Republics of Chili and Argentina. It is quite fitly symbolised by an impressive statue which has been set up on the Uspallata Pass representing Christ extending the blessings of peace on either hand.

In Europe the Pyrenees form perhaps the most typical example of an effective mountain barrier. The Pyrenees appear to be more literally a wall than most ranges, owing to their flat-topped formation and the steepness of their northern gradients. No railway crosses them; they are, however, outflanked at either end on the Atlantic and Mediterranean seaboard. No ethnical or linguistic interests are involved, and they stand as they have stood for ages as the parting line between two Latin nations which so far have shown no tendency towards mutual assimilation or desire for cultural unity. The original idea in adopting this political frontier was no doubt that of a barrier, and as a barrier, it is still effective.

Ages yet will pass in the world's history before civilization becomes the basis of international unity. No sooner are human passions aroused, even in nations, than primitive and savage characteristics betray themselves. Then the laws of civilization are cast to the winds, and forcible separation becomes again the stern law of political boundary making. The Pyrenees stand for an excellent example of what that separation should mean—until the advent of the millennium.

The frontier of Italy on the northeast, although not so perfectly adapted to the barrier ideal as the Pyrenees, is yet a magnificent natural frontier regarded either in the light of an ethnical division or as a military defense. From the Maritime Alps to St. Gothard the boundary follows the crest of the Alps, and the only exception is when the Maritime Alps reach down to the sea, and the watershed is abandoned in consequence of territorial considerations connected with the acquisition of Provence by France. * * *

The north Italian frontier is of exceptional interest as an example of an extended mountain barrier which is ideal in its geographical conditions for the greater part, but, whilst still a mountain barrier, illustrates fully the weakness and futility of such a boundary scheme when once the principle of following a main watershed is abandoned. Valleys are crossed; local interests divided; racial and social affinities are disregarded; mountains are traversed with an air of readiness which suggests that the boundary can only exist on paper, and a permanent international grievance is established which can only be settled by force.

A convenient range of mountains so disposed by nature as to present the opportunity for utilising its crest in the delimitation of a political boundary does not always occur, and the majority of such boundaries have to depend on other natural or artificial means of support. Failing a definite uplifted

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watershed, the ordinary divide between the heads of minor affluents of river basins is a useful alternative. Its advantages are those of permanence, definiteness, and economy, even if it presents no advantages from the fact that a divide usually represents a certain command in altitude which would render it important as a military feature.

On the other hand, a boundary formed by a river which flows through a habitable valley, and especially a navigable river, instead of being a line of separation is a line of actual physical contact, where the interest of both sides are bound to overlap and intermingle, and consequently a river boundary both invites and generates interference and encroachments and friction.

On this point, Dr. Holdich says:

From the point of view from which all frontier boundaries must be critically examined in these days, viz, its efficacy as a barrier, rivers must be regarded generally as a failure. One great lesson that the war with Germany has taught us is that rivers in these days are but feeble checks to an advance compared to mountain heights.

See also the quotations on this point from Prof. Fawcett's book, appended to the above-mentioned summary, from which the following extracts are taken:

A valley is a natural unit; and as the land becomes fully occupied the river tends to become the axial line of an area of dense population, and so a place of frequent intercourse in trade and social life; so that the peoples of its banks become more or less assimilated to one another. * * *

With the advance of civilization it becomes essential to control the course of the river, to drain its bordering marshes, to deepen the channel here and remove obstacles there so as to facilitate the clear flow of the waters and navigation. And in some cases the supply of water power, or of water for town supply or for use in irrigation, is important. But if two States share the control of one river these matters may each and all become sources of friction between them. The river is one. To strengthen one bank, or deepen the channel, or take out water at any one place affects the current and so disturbs the conditions at the other bank, and both up and downstream from the place where it is directly modified. The natural migration of the meanders becomes a source of political complications. * * *

Where the water is used for irrigation on a large scale the physical unity of the valley is still more strongly emphasized in its reactions on the inhabitants. * * * Differences in regard to the allotment of the water, and consequent friction, are likely to arise wherever more than one State has a claim on the water supply of one river system for purposes of irrigation. * * *

In the vast majority of cases the drawbacks of a river boundary for a civilized State in a settled and populous land far outweight the advantage of its easy recognition. Few such boundaries have survived for any long period.

Turning now to the maps submitted with the economic survey report, which correspond in respect to the point under consideration with all of the modern maps filed in this mediation, it will be found that the exact topographical conditions required to constitute the ideal scientific boundary sought for are furnished by the presence in

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the disputed territory of the splendid mountain range which extends continuously from the Atlantic coast on the north to the Salvador frontier on the south.

This mountain range at its northern end begins at a point adjacent to the seacoast a little to the westward of Omoa, and extends in a generally southwesterly direction carrying the names successively of Montañas de Omoa, Sierra del Espiritu Santo, Montañas de la Grita, or Montañas de Gallinero, until it turns directly south under the name of Cordillera del Merendon, and continues in that direction beyond the Salvador frontier, which crosses it near the point on the map called Peña de Cayahuanca.

IV. Controlling Considerations Which Compel the Selection of These Mountains as the Boundary.

In creating the above-described mountain range, nature has provided in the midst of the disputed territory the ideal international boundary which it must be the aim of the mediator to approximate as closely as the other considerations entering into this question will permit.

From the point of view of Guatemala, these other considerations not only permit, but they positively direct, the designation of the boundary line along this mountain range as the most equitable and statesmanlike solution of this question which is possible on a compromise basis.

In the first place, so far as considerations of a legal nature are concerned, it is true that the adoption of these mountains as the boundary would represent a concession by Guatemala rather than by Honduras, for it would require Guatemala to relinquish, on the Honduran side of the mountains, territorial claims which are much greater in extent and are based upon a much stronger legal foundation, as already shown in these mediation proceedings, than are the claims which would be relinquished by Honduras on the Guatemalan side of the mountains. Nevertheless, Guatemala is disposed to make this concession as an equitable basis of compromise, because for the political, economic, and strategic reasons which are discussed below and which the mediator is bound to take into consideration, the national prosperity and the good relations of these two countries can be best secured by the adoption of the ideal boundary offered by this natural barrier.

It must be distinctly noted, however, that this concession is proposed on the part of Guatemala merely as a basis of compromise, and without waiving or relinquishing her legal title, which has been asserted and demonstrated in these proceedings, over the territory

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between the mountains and the ancient boundary line running along the Ulua River, and thence down to Fonseca Bay, in case the compromise line now proposed is not acceptable.

In the second place, so far as concerns the economic and political considerations above mentioned, which may conveniently be discussed together, the following facts based upon the information contained in the economic survey report show that as a matter of economic and political necessity all the territory claimed by Honduras on the Guatemalan side of this mountain barrier must inevitably be treated as an integral part of Guatemala.

(1) Topographically considered the entire Copan district and all the disputed territory between the mountains and the Motagua River is completely separated from Honduras by the intervening mountain barriers, and is economically dependent upon and forms an integral part of Guatemala.

The Copan district has no economic contact with the internal life and centers of population of Honduras, which lie on the farther side of these mountains. The journey from Copan to Tegucigalpa, the capital of Honduras, is long and difficult, requiring several weeks of continuous travel, and the only means of transportation is by mule back on mountain trails over these mountains and other intervening mountains and valleys to the eastward which form practically a prohibitive barrier against commercial intercourse or political union. In the rainy season for half the year the high water in the rivers and the bottom lands in the valleys make these trails impassible, and even this primitive means of communication is completely shut off.

On the other hand, between the Copan district and the commercial life and centers of population of Guatemala, the distance is much shorter, the means of transportation are much more convenient, and intercourse is facilitated instead of being obstructed by the intermediate topographical conditions. The greater part of the distance can be covered by river or railroad travel. Commercial contact with the capital of Guatemala and with Puerto Barrios on the Atlantic coast has long been established because the agricultural and commercial products of this region have no real outlet except through Guatemala, and all of its incoming supplies must come through Guatemalan channels.

Throughout the Copan district and the disputed territory between the Motagua River and the mountains there are no roads over which traffic may be carried for long distances in wheeled vehicles. Such vehicles may be used only in the streets of the town and their suburbs. There are a few mountain trails which meander by the most accessible routes in rolling country and zigzag with many short turns up and down steep mountain sides. Some of these trails are in reasonably good condition over a few of the more traveled routes.

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Improved means of communication with the Guatemalan trade channels with greater commercial development and increased prosperity in all of this region will follow the final settlement of the boundary, leaving this region definitely under the undisputed jurisdiction of Guatemala, where it naturally and legally belongs.

(2) All the disputed territory to the west of the mountain barrier, except below the Copan district, forms part of the watershed of the Motagua River. The economic dependence of this region upon Guatemala and its identity of interest with the internal life of Guatemala, with the consequent necessity for political unity with Guatemala, has already been shown.

The valley of this river, forming as it does an important center of Guatemalan commercial life and population, can not be subjected to divided control without disastrous consequences. This river and valley are now and must continue to be dominated by Guatemala.

If Guatemala should lose its exclusive control over this river, its control over its national railroad running along the banks of the river would be jeopardized, and without the exclusive control over both the river and the railroad it would be impossible for Guatemala to maintain its national integrity and its economic independence.

From the main line of this railroad a number of branch lines have been constructed on both sides of the Motagua River, serving local banana plantations.

The river and the railroad together furnish the natural channels of transportation between the interior of Guatemala and the Atlantic seacoast, so that they are not only indispensable arteries of trade but also play an equally important part for military and strategic purposes of national defense.

For these reasons it is equally important that Guatemala should also have exclusive control over the entire watershed and all the tributaries of the Motagua River.

Upon this exclusive control depends the effective use of this river and its tributary waters for the maintenance and improvement of the navigation of the river and the drainage of adjacent swamp lands, the development of water power, the irrigation of plantations, the sanitation of settlements, the protection of the supply of food fish, and the prevention of smuggling, etc., all of which would be prejudiced if not impossible under a divided control.

Moreover, on the part of Honduras it is merely a question of doing an intolerable injury to Guatemala without the justification of any national necessity or even the possibility of any important economic advantage to be gained by Honduras.

The interest of Honduras in this territory represents only political ambitions which can be abandoned to the advantage of all concerned. The interest of Guatemala, on the other hand, is forced upon her

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by national necessity, and can not be abandoned without self-destruction.

(3) The question of the preferences, if any, of the inhabitants of the territory in dispute must also be considered.

The population of the entire region under consideration from the Salvadorean border through the Copan district, and between the mountains and the Motagua River is less than 9,000 persons.

The population in the lower part of this district does not exceed an average of five persons to a square mile, the total population in 75 square miles being only about 375. In the entire Copan district the population is not more than an average of 10 persons to a square mile, the total population in 540 square miles being only about 5,400.

The northern end of the Motagua Valley between the river and the mountains was practically uninhabited until the Cuyamel Railroad was built and the banana plantations started. The influx of the present population there was due almost entirely to these two causes. In this entire region apparently Honduras has no real interest apart from the interests of the Cuyamel Fruit Co., and this company as a matter of fact is not a genuine Honduran interest, being actually a North American enterprise, entirely financed by capital from the United States.

In the mountainous part of this disputed territory there are less than two persons per square mile.

The entire mountain range is very sparsely inhabited throughout the area extending from 4 to 10 miles on each side of a line from High Cerro Azul to Omoa along the Montañas del Gallinero, and thence by the divide following the range of mountains bearing the names of Gallinero, Grita, Espiritu Santo, and Omoa.

An even more sparsely inhabited region is found along the line of the Cordillera del Merendon from Cerro Azul southward to the Salvadorean frontier.

In the entire quadrilateral formed by a line connecting Cerro Brujo, Cerro Obscuro, Cerro de San Geronimo, and the Peña de Cayahuanca the chief and only important settlement is Ocotepeque, which was founded by Don Pedro de Alvarado in 1536 within the province of Guatemala. This settlement now has a population of less than 3,000 persons, and the total population of all the rest of this quadrilateral is less than that number.

In the territory in dispute between the Motagua River and the mountains the greater part of the privately owned lands are held under Guatemalan grants and land titles.

There are naturally no Honduran interests in the extensive areas covered by these Guatemalan land grants, and so far as concerns the small number of inhabitants of this region who hold Honduran grants, it may reasonably be assumed that they will be satisfied by

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assurances that their titles will not be prejudiced by the recognition of Guatemala's jurisdiction over this territory.

In the northern end of this area the Cuyamel Fruit Co. holds the only important concession under Honduran grant, and this conflicts with Guatemalan land grants and is discussed separately below.

As to the personal interest of the inhabitants in all of this disputed territory in distinction from their property interests, it is clear that inasmuch as no racial or religious or social distinctions can be drawn between them and the inhabitants of other parts of Guatemala, they can not be presumed to have any personal preference against Guatemala. On the contrary, their personal preference must be determined by self-interest; and as their future welfare will best be promoted by commercial and political union with Guatemala on account of the economic and political considerations above mentioned, their preference must be presumed to be in favor of Guatemala.

The attitude of the inhabitants generally in this disputed area is reported by the Economic Survey Commission as follows:

118. Throughout the route followed by the expedition from Cerro Brujo to the sea all of the inhabitants with whom we talked desired a settlement of the dispute concerning the line dividing the two countries, and with few exceptions the local residents were not aggressive in their expression of opinion on the subject.

119. In the towns south of Copan—where municipalities comparatively close together are under the authority of different governments—the people, as well as the officials, manifest a desire for a quick decision regarding the limits to end the present unsettled conditions. The general sentiment being expressed in the words, "Let it be settled amicably; we are of the same blood and therefore should be brothers, but we really need a limiting boundary line for our local government."

145. After studies of the map and historical data relating to the region, and having also traveled on mule back, by railroad, and by boats through the territory in dispute, and camped and lived among and talked to the people of both countries, it is possible to say that a boundary line can be located in the region that will be acceptable to practically all the people who actually live and work in the region—an industrious, law-abiding class of ranchmen, farmers, merchants, and laborers—all of whom desire the question of the boundary to be quickly settled and thereby eliminate any probability of armed conflict over the question, and who, with but few exceptions, expressed with dignified calmness and candor opinions in regard to the question of the boundary. The exceptions were people who had been there but a short time and were not actual residents of the region.

In this connection attention is called to the statement already quoted from this same report that the part of the disputed territory invaded by the Cuyamel Railroad was practically uninhabited until that railroad was built. Obviously the other statement above quoted that newcomers who are not actually residents of the disputed terri-

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tory are the only ones whose opinions about the fixing of the boundary have not been expressed with candor and dignified calmness applies to the inhabitants who have been brought from Honduras by this company to work on the banana lands which it has taken possession of, and its employees who are engaged in operating the railroad which it has constructed in this disputed territory, and the construction gangs which it has imported for the purpose of extending this railroad further into Guatemalan territory, and who would have extended it before now into the heart of the valley of the Motagua River, if they had not been stopped by Guatemalan soldiers.

The preference of these newcomers who are not actual residents does not seem to call for any special consideration on the part of the mediator.

(4) The interests of the Cuyamel Fruit Co. itself, apart from the interests of the Hondurans whom it has imported into this disputed territory, remain to be considered.

The Cuyamel Fruit Co. as at present organized, was incorporated in January, 1912, under the laws of the State of South Dakota, United States of America, and has an authorized capital of $5,000,000. All of its officers are understood to be citizens of the United States, and all of the capital stock is reported to be held in the United States. This company includes among its assets concessions and land grants from the Government of Honduras for the development of the territory covered by its operations in the disputed area westward from Omoa, and between the mountains of Omoa and the Motagua River. In this disputed territory the Cuyamel Railroad has been constructed by this company from Omoa westward through Veracruz and Cuyamel and beyond toward the Nuevo River, and an extension of this railroad is projected through Quimistan under a concession granted by Honduras in 1916 to Mr. S. Zemurray, who is the president of the Cuyamel Fruit Co.

It is stated in the economic survey report that between the Tinto River and the Nuevo River this railroad runs for approximately eight miles over Guatemalan land grants and that the proposed extension between the Nuevo River and the Chiquito River, approximating twenty-two miles in length, will conflict with Guatemalan land grants for the entire distance.

The rights of the Goverment of Guatemala which were infringed by these concessions from Honduras and by the operations undertaken under them were safeguarded by official objections duly interposed by the Government of Guatemala, and finally these objections having proved unavailing to prevent the extension of these encroachments, the Government of Guatemala prevented their further advance by interposing its military forces and stopping the construction of the road before it reached the Nuevo River.

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In view of the ownership and control of the Cuyamel Fruit Co. by interests in the United States, it is evident that so far as this mediation is concerned, this company is not entitled to be treated as an agency of the Honduran Government, but must be regarded as an agency of United States capitalists, operating in their own interest and using the concessions which they have obtained from Honduras as an excuse for invading territory claimed by Guatemala without the permission of that Government.

The Secretary of State of the United States, as the mediator between Guatemala and Honduras in this boundary dispute, is not called upon to give any special consideration to the interests of citizens of the United States who have invested capital in this disputed territory with full notice of the cloud upon their title. Moreover, all of these concessions contained an explicit reservation that they were granted without prejudice to the rights of third parties.

Nevertheless, upon the final settlement of this boundary, it will be possible for the two Governments to arrange for an equitable adjustment of the respective interests of the holders of these and other conflicting concessions and land grants from Honduras and Guatemala in the disputed territory.

On this point the mediator will recall that the Chargé d'affaires of the United States at Guatemala City addressed a note to the Minister of Foreign Affairs of Guatemala under date of January 24, 1918, in which he declared on behalf of the Government of the United States that it is clearly understood that the concessions granted in the disputed territory, and the rights and activities thereunder, can not be discussed in connection with the permanent arrangement of the frontier of Guatemala and Honduras, and, furthermore, that the Government of the United States believes that the introduction of matters irrelevant to this discussion would only tend to cloud the fundamental question which is to be settled.

It will also be recalled that in replying to this note, the Secretary for Foreign Affairs of the Government of Guatemala wrote, under date of January 25, 1918, that the Government of Guatemala never had the intention of introducing matters relating to concessions, or rights and activities thereunder, into the settlement of the international boundary, and that consequently it shared the opinion expressed by the Department of State on that point.

He stated further in this note that in conformity with this principle the Government of Guatemala had given no authority to the companies to which concessions have been granted in the zone under discussion to develop for the present their activities, and it believed that it was just that the Government of Honduras, inspired by identical views, should suspend the work of its concessionaries, and in

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particular that of the Cuyamel Fruit Co., which upon the settlement of the fundamental question will undoubtedly be renewed in an impartial manner. This note stated in conclusion that to proceed in any other manner would be to place Guatemala in so manifestly an inferior position that it would neither be compatible with the dignity of the nation nor the spirit of impartiality and justice which has always prompted the honorable Department of State.

V. Honduras Has no Interests of Any Importance, Either Political, Commercial, or Economic, in the Disputed Territory Between the Mountains and the Motagua River.

Apart from the interests of the Cuyamel Fruit Co., which, as above shown, are, strictly speaking, North American and not Honduran interests at all, the economic survey report does not disclose any interests of any importance, either commercial, economic, or political, on the part of Honduras in the disputed territory between the mountains and the Motagua River.

Prior to the granting of the concessions upon which the claims of the Cuyamel Fruit Co. are based, Honduras never exhibited the slightest interest in any of the territory to the west of the Omoa Mountains.

The constitution adopted by Honduras under date of January 11, 1839, states, in article 4—

> The State of Honduras comprehends all the territory which, in the time of the Spanish Government, was known by the name of the *Province* and as being bounded as follows: *On the west by the State of Guatemala;* on the south southeast, and west by that of Salvador; on the south by the creek of Conchagua, in the Pacific Ocean; on the southeast and south by the State of Nicaragua; on the east and northeast and *north by the Atlantic Ocean* and the islands adjacent to its coasts in both seas.

This is a formal declaration embodied in the supreme national law of Honduras that the boundary of the State of Honduras coincides with the former boundary of the Province of Honduras and that both were bounded on the west by Guatemala and on the north by the Atlantic Ocean.

This declaration finally and conclusively disposes of any claim on the part of Honduras that the jurisdiction of the State or Province of Honduras extended over Belize, for, in that case, their western frontier would have been described as bounded by Mexico or Yucatan. So also, it disposes of the claim that the territory of Guatemala does not lie between Honduras and Belize, for in that case this boundary provision of the constitution would have described Honduras as bounded on the west by Belize and Guatemala, instead of by Guatemala alone, or on the north by Belize and the Atlantic Ocean, instead of by the Atlantic Ocean alone.

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Again the constitutions of the Republic of Honduras adopted on February 8, 1848, and on September 8, 1865, reiterated the declaration of the earlier constitution that the boundaries of the State and the former Province of Honduras are the same, and both are again declared to be bounded on the west by Guatemala and on the north by the Atlantic Ocean.

The constitutional boundaries so defined were left undisturbed by the later constitution of November 1, 1880.

In view of these repeated definite and conclusive declarations which preclude any claim by Honduras that the boundary of the Province or State of Honduras ever extended as far as Belize, the mediator may dismiss without further consideration the contention to that effect made on the part of Honduras, in these proceedings.

In 1886 an official map of the Republic of Honduras, prepared by Mr. A. T. Byrne, "civil engineer of the Government of Honduras," showed the summit of the mountain range extending from the Atlantic coast near Omoa to the Salvadorean frontier as the western boundary of Honduras. Dr. Policarpo Bonillas has questioned the official character of this map, but has produced no evidence to discredit the declaration which it bears on its face that it was prepared by the engineer of the Government of Honduras, which is confirmed by the further inscription on its face that it is for sale in Tegucigalpa by special decree of the Supreme Government of Honduras.

This inscription reads as follows (translation):

For sale by E. C. Fiallos & Co., civil and mechanical engineers and appraisers of mines in the Republic by special decree of the Supreme Government. Tegucigalpa..

Mr. E. C. Fiallos, it is of interest to note, subsequently became Minister for Foreign Affairs of the Government of Honduras.

Topographically this map is not reliable and is misleading, for it places the lower part of this mountain range to the westward instead of the eastward of the Copan district, where it is correctly placed in the official map of the economic survey report. Notwithstanding this inaccuracy, the map is of value as evidence demonstrating that in 1886 the mountain barrier, which nature had established from the Atlantic coast to the Salvadorean frontier, was the utmost limit of the pretensions of Honduras as exhibited in this official Government publication.

From 1886 until 1900 this map stood unchanged, as notice to all the world that the mountain barrier was the western limit of the territorial pretensions of Honduras.

Toward the end of this period it will be remembered that the United States capitalists began to acquire large territorial concessions in Central American countries for banana plantations, and the production of bananas and their exportation to the United States was

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being developed into a well-established and exceedingly profitable business.

The lands between the Motagua River and the mountains, which have thus recently become a part of the area in dispute between Guatemala and Honduras, were well adapted for banana plantations, and in the years preceding 1900 the value of these lands, which hitherto had been regarded as waste lands, was beginning to be understood.

It was then known that American capitalists were in the market for concessions for the development of such lands, and it is not surprising that Honduras should have seen the opportunity, or perhaps been persuaded to take advantage of the chance to profit by the competition between North American capitalists for concessions in this territory. At all events Honduras prepared for this contingency by causing a revised edition of the official governmental Byrne map of 1886 to be issued in 1900, identical in all respects with the earlier edition, which had stood unchanged since 1886, except that instead of following the summit of the mountain range, as in 1886, the boundary was arbitrarily extended beyond the mountains to the Motagua River in the section between the Quebradas River and the Atlantic coast on the Guatemalan side of the mountain range, so as to include in Honduras this fertile banana region.

This extension appears on the map as a projection of a district of Honduras called Santa Barbara, which alone of all the frontier districts is made to jut out beyond the summit of the mountain, forming an extraordinary and arbitrary departure from the normal and natural boundary line. The only explanation for this attempt by Honduras to force an artificial boundary in place of a natural one is found in the fact that the concessions granted by Honduras to the Cuyamel Fruit Co. are included within this extension of the boundary. As above pointed out, however, this company, which represents the only commercial development in this region, must be regarded as a North American and not a Honduran interest for the purpose of this mediation.

A copy of this official Byrne map of 1900 was produced by Honduras and placed in evidence in this mediation, but a copy of the 1886 map was not produced, although an attempt was made to discredit it in the report on maps filed on behalf of Honduras. In order that the mediator may have an opportunity to determine for himself the evidential value of this official basic map of 1886, a copy of it has since been procured by Guatemala from the Library of Congress and placed at his disposal.

VI. The Map Prepared by the Economic Survey.

The map filed with the Economic Survey Report was prepared, as stated in the indorsement upon it, by combining information

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1900, and are classified as giving the lower part of the Motagua River, or the whole of it, as the northwestern boundary of Honduras.

Here again it becomes evident that map makers in each of these three groups differ radically with contemporaneous map makers in each of the other groups, as well as with those in the first two groups above mentioned, in indicating the boundary divisions in Central America. These differences are so considerable and various that it has been found necessary to separate these maps into at least five different groups, and a more discriminating classification would add several more.

It also appears from an examination of the thirty-three maps included in the third group that sixteen of these maps show Honduras entirely shut off from the Pacific by the extension of Guatemala and Nicaragua across its entire southern frontier, and for this reason the author of this report discredits these maps as evidence in regard to the southern boundary of Honduras, while at the same time relying upon them as evidence in regard to the western boundary of Honduras. The author of the report comments on these maps as "weakened as evidence, as Nicaragua is made to extend too far west," or "weakened as evidence, as the Gulf of Fonseca is placed wholly in Nicaragua," or "the map is not very strong as evidence, as it is poor in several respects," as "weak politically, in that it gives Nicaragua the Gulf of Fonseca." It does not seem to have occurred to the author that these maps could be criticized in the same way by Guatemala on account of the position thereon of the western boundary of Honduras.

Six more of these thirty-three maps show no boundary line between Guatemala and Honduras, and in several of these the word "Honduras" is altogether east of the Ulua River.

In some of these thirty-three maps Guatemala is not shown at all, and in one of them the boundary is shown along a mountain range between the Motagua and Chamelecon Rivers about in the general location of this range as shown on the Economic Survey map. In the Honduran report the location of the boundary in this map is interpreted differently, but upon a more careful examination the map appears so unfavorable to this claim of Honduras that it must have been included in this particular classification by mistake.

As to the other nine maps included in this group, they are so defective as maps of this region that they are of little value for any purpose.

As to the eight maps in the fourth group, it is sufficient to say that even if they do appear to support the contention of Honduras that these map makers thought the boundary of Honduras extended across the Motagua River near its mouth, they also show that the same map

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any political divisions at all, and those few are only in agreement with each other in cases in which the earlier maps have been blindly followed in the later ones.

Ten of the maps submitted by Honduras range in date from 1527 to 1850 and are grouped together in the report as "giving Honduras the whole coast of the Bay of Honduras as far as the boundary of the present-day Belize," but as already shown, the claim to Belize as a boundary has been discredited and disposed of by the Government of Honduras in its constitutions adopted in 1839, 1848, 1865, etc., which fix Guatemala, and not Guatemala and Belize, as forming the western frontier of Honduras.

Contrasted with these ten maps, fifteen other maps are submitted in this report ranging from 1587 to 1835, which is approximately the same period, and these maps are listed "as giving Honduras all territory as far west as Dulce waterway" instead of as far west as Belize. If this interpretation of these maps was correct, it would appear that there was a decided conflict of opinion between these two sets of map makers, practically contemporaneous with each other.

In justice to this second group of map makers, however, it must be pointed out that none of them actually show any boundary lines, and their classification in the Honduran report as giving Honduras all the territory as far west as the Dulce waterway depends upon an arbitrary interpretation adopted by the author of this report. The maps themselves give only very general and indefinite indications as to political divisions, but the author has interpreted these indications to suit the requirements of the Honduran claim. One illustration will serve for all. For example, in discussing the 1792 Jefferies map, the report states "no boundary is given, as this is a marine map, but the position of the name Honduras indicates that at least the whole of the territory to the Gulf of Dulce was regarded as part of Honduras." As a matter of fact, the word "Honduras" lies wholly to the east of the Ulua River, so that if inferences are to be indulged in, it might more properly be inferred that the Ulua River, rather than the Dulce waterways, was regarded by this map maker as the western boundary of that province.

Thirty-three other maps, ranging from 1656 to 1842, are listed in the report as giving Honduras Cape Three Points and the whole of the territory drained by the Motagua River system with some slight exceptions.

Eight more of these maps, ranging from 1826 to 1849, are listed as giving Cape Three Points and the lower part of the Motagua River to Honduras.

The final eight maps, which make up the total of seventy-four maps filed by Honduras in these proceedings, cover a period from 1804 to

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VII. Conclusions.

As has already been pointed out in the course of this mediation, both sides have agreed that by reason of the last paragraph of article 6 of the treaty of 1914 the principle of *uti possidetis* as applied in this case depends not on *de facto* possession, but primarily upon the legal character of such possession, because actual *de facto* possession must give way to the right of possession *de jure*, subject always to the requirement of equitable adjustments as provided for in article 7 of the treaty.

It has also been established in these proceedings that Guatemala has a right of possession *de jure* over all the disputed territory, and consequently, in accordance with the above-mentioned principle, whatever *de facto* possession Honduras may have over any part of the territory to the west of the mountain range, which has been suggested by Guatemala as the compromise boundary, must give way to Guatemala's right of possession *de jure* over all that territory.

It has been shown, as a result of the Economic Survey Report and map, that in addition to Guatemala's right of possession *de jure*, there are many other conclusive reasons arising out of topographical, economic, commercial, and political considerations which demand that all of this territory be regarded as an integral part of Guatemala.

In other words, on the one side the interests of Honduras in this territory represent merely a voluntary policy of expansion beyond its natural borders and into a region which can never be assimilated with Honduras either economically or politically, while on the other side the interests of Guatemala represent the demands of national security and integrity within natural limits and rest upon the solid foundation of justice and equity.

In conclusion, therefore, it follows that a settlement of the boundary along the mountains from the Atlantic coast to the Salvadoran frontier, in accordance with the liberal concession which Guatemala is willing to make on the basis of compromise, will insure peace and good will between Guatemala and Honduras by removing all causes of friction and discord in this disputed territory on the Guatemalan side of the mountain barrier and at the same time will serve the best interests of the inhabitants of that territory inasmuch as they are economically and commercially dependent upon Guatemala; while a boundary drawn in accordance with the claims of Honduras would have exactly the contrary effect.

(Signed) Chandler P. Anderson,
Counsel for Guatemalan Special Mission.

December, 1919.

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REPLY ON BEHALF OF HONDURAS TO THE MEMORANDUM ON THE ECONOMIC SURVEY REPORT SUBMITTED BY COUNSEL FOR GUATEMALA IN DECEMBER, 1919.

INTRODUCTORY STATEMENT.

Counsel for Honduras had supposed that the record in this mediation was closed when the briefs filed by them and the counsel for Guatemala were submitted to the honorable mediator; and that unless specific requests for information should be forthcoming from the honorable mediator, no further notes, evidence, or briefs would be submitted, with the exception of the submission by Honduras of a certified copy of the cedula of July 24, 1791, which approved the incorporation in the Intendencia of Comayagua (i. e., Honduras) of the Alcadía Mayor of Tegucigalpa and all the territory of the Bishopric of Comayagua except the port and military post of Omoa. The representative of Honduras did not have in his possession this important cedula, although his counsel had taken steps to obtain such copy from the Spanish archives. At the time he received the verbal assent of the Hon. Boaz Long, then the representative of the mediator, to file it when received. In the sequel it did not prove feasible to arrange for the certified copy until Dr. Bonilla went to Paris to attend the Versailles Peace Conference. Upon his return to Washington, Dr. Bonilla transmitted a certified copy of the cedula to the honorable mediator with his note of November 26, 1919. An English translation of this cedula is attached hereto, marked Honduran Exhibit XXVI.

In December, 1918, the honorable mediator found that in the very brief period remaining before his departure for Europe, it would be impossible to give the case the attention necessary to justify his suggestion of a basis of agreement for the settlement of the boundary controversy; but he had examined the case sufficiently to foresee that he would require additional information, particularly as to topographical conditions along the frontier and as to the extent and character of the interests likely to be affected by the settlement. He therefore proposed "that the two Governments jointly, or separately, arrange to procure this information under the direction of a representative of this department" in order that it might be available for use on his return (Identic note of Dec. 3, 1918, Mediation Record, Vol.

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II, pp. 587–588). The mediator's proposal eventuated in the organization of the Economic Mission organized under the auspices of the American Geographical Society and in its report, dated September, 1919.

Counsel for Honduras desire to state that Dr. Bonilla did not, as affirmed by Mr. Anderson, refuse to agree to the mediator's proposal for the dispatch of the mission. He at once accepted the proposal in principle, but made certain observations and requested the definition of certain ambiguous points—all tending to assure the successful outcome of the mission. Presumably through the mediator's absence, his note of December 11, 1918, remained unanswered.

In view of the fact that counsel for Guatemala had in December last filed with the honorable mediator a memorandum on the report of the Economic Mission, the Hon. Leo S. Rowe, the present representative of the mediator, at his conference with the representatives of the two Governments and their counsel held January 2, 1920, gave Honduras the opportunity of filing a reply and such additional documents as should be desired, on the condition that they be submitted not later than the 31st of the month. It was verbally agreed with Dr. Rowe by the parties that this reply for Honduras and its exhibits should be final, and that the representative of Guatemala and his counsel should submit no further memoranda or documents.

In submitting the present reply to Mr. Anderson's memorandum on the economic survey report, counsel for Honduras desire to explain that they propose therein also to comment upon and rebut so much of the matter in his summing up of December last as goes beyond the proper limits of a summary of the notes and evidence filed by the parties. Such procedure is the more permissible in view of the fact that Mr. Anderson has by reference incorporated this document in his memorandum on the report of the Economic Mission.

Counsel for Honduras wish also to state that since a considerable portion of Mr. Anderson's final memorandum is devoted to a criticism of the soundness of the conclusions expressed by Dr. Williams in her cartographical and geographical report and to an attempt to negative the evidential value of the maps filed by Honduras, they have obtained from Dr. Williams, and submit herewith a brief reply with whose considerations they are in accord and therefore adopt. They have felt that the points at issue could most effectively be dealt with by the expert originally engaged by them.

Counsel for Honduras do not propose herein to engage the honorable mediator's attention with a reargument of the fundamental legal issues and principles which are involved in the present controversy. They have found nothing in the brief submitted by the counsel for Guatemala to shake either the soundness of the position taken by Dr. Bonilla in the notes filed by him with the mediator, or of the arguments put forward by them in their brief in support of this position.

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To this proposal, however, there are two qualifications. The first is that it becomes necessary to discuss the cedula of July 24, 1791, since its text was not available when their brief was prepared and counsel for Honduras were accordingly forced to rely on references thereto in printed sources. The second qualification is that it is necessary, in view of the attempt of the counsel for Guatemala to shift the issue joined, to discuss the proper procedure for the honorable mediator to follow in recommending a boundary line.

I.

THE CEDULA OF 1563 UPON WHICH GUATEMALA RELIES TO ESTABLISH THE ULUA-FONSECA LINE, IS INCONSISTENT WITH THE CEDULA OF JULY 24, 1791, AND MUST BE REGARDED AS ABROGATED THEREBY, IRRESPECTIVE OF ALL THE OTHER VARIETIES OF EVIDENCE OF ITS DEROGATION SUBMITTED BY HONDURAS.

An inspection of the text of the cédula of July 24, 1791, shows that the references to it in print which were available to counsel for Honduras when they prepared their brief, were accurate in respect of stating that its effect was to incorporate in the intendencia of Comayagua (Honduras) all the territory of its bishopric, except the port and military post (plaza) of Omoa (Mediation Record, vol. II, pp. 410, 411, 422, 448). If now the honorable mediator will examine the translation of the cédula text, attached hereto as Honduranean Exhibit XXVI, he will note that it is a royal decree made by the king acting with his council of Indies after hearing his solicitor general (fiscal), duly noted in the office of the auditor general; and that it legislated upon the question of the proper territorial limits of the jurisdiction of the governor-intendente of Honduras, defining such jurisdiction as just mentioned.

The cédula is addressed by the king in council to the president and ministers of the superior board of the royal treasury at Guatemala City, who under the new system of intendencias introduced in 1787 into the captaincy general of Guatemala were the supreme authority therein. In it the king advised them: "I have resolved to approve (as by this my royal cédula I approve) in all its parts your said order of January 9, 1788."

This order of the superior board of the treasury is summarized as follows in the preamble of the cédula:

* * * at the meeting held on January 9 of said year 1788 you ordered the incorporation in the intendencia of Comayagua of the said alcaldía of Tegucigalpa with all the territory of its bishopric, with the exception only of the military post (plaza) and port of San Fernando de Omoa, where its political and military governor should remain as it had up to then, the treasury

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department continuing subject to the superintendency general and separated from the Province of Comayagua, in consideration of the fact that said military post (plaza) and Government had always corresponded to the superior government of the kingdom and of the fact that its ties with Golfo-dulce, Bodegas Altas, and the royal customs of your capital would not suffer its separation from the said superintendency without leaving exposed to many complications mercantile operations and the operations of the royal treasury which daily occurred in said port, which order (Providencia) you hoped would merit my royal approval or that I should be pleased to decide what should be my royal wish.

The preamble of the cédula in addition summarizes the petition of Brigadier Quesada, governor-intendente of Honduras, which gave rise to the order of the superior board, dated January 9, 1788, showing that this order not only defined in general the territorial jurisdiction of the governor-intendente of Honduras, but also restored to his jurisdiction the district of San Pedro Sula which Matias de Galvez had taken from him and placed under the control of the military commandant of Omoa, for the duration of the war then waging:

By letter of April 2, 1788, you gave account with certified copy of the appeal which Don Juan Nepomuceno de Quesada, being governor-intendente of Comayagua, made to your superior government, setting forth that through what is provided in articles 8 and 9 of the royal ordinance of intendentes to the effect that the several officials of each Province should be considered subdelegate vice-patrons of the principal official, and that after its publication the corregimientos and alcaldías mayores should be suppressed as they should become vacant, it appeared to him that in this number should be comprehended the alcaldía mayor of Tegucigalpa, whose Province was subordinate to that of his command, and that it was so united with his Province as well in ecclesiastical matters as in the collection of tribute, payment of salaries and other things relating to the royal treasury, that the royal intentions detailed in the said ordinance could not be entirely obeyed, if all were not subject to the order of the intendencia, and that for the same reason he considered that the occasion had arrived of reuniting also with the intendencia the district of San Pedro de Sula, which by special order of the late president-governor of your kingdom, Don Matias de Galvez, was added to the commandancy of Omoa, but with the proviso that this should only be for the time that the war should endure; since although the war had ended, he did not represent it [the district of San Pedro de Sula], believing that said commandant did so in order to have said district more in view, at the present day he was forced to request that its reunion be considered as indispensable for the collection of tribute in accordance with the method established by said ordinance, declaring also whether the treasuries of Omoa should be considered subject to the intendencia as established in the district of the Province, in order with this knowledge to make the distribution of the towns and valleys which should pay tribute into the said treasuries, and into those of Comayagua, or whether all should go to these treasuries.

The evidence as to the extent of the ecclesiastical jurisdiction of the bishop of Honduras has been amply considered in the brief for Honduras. (Mediation Record, vol. II, pp. 433–437, 446–447, 461–

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462, and 475.) It is only necessary here to recall that this evidence proves beyond a peradventure that the episcopal jurisdiction of the Honduran bishop extended, at this date of 1791, and to the end of the colonial epoch, at least as far west as the Motagua River and included all of the hilly territory to the south inside of the present line of Honduran occupation; and that this fact is confirmed by the evidence of a political character, to say nothing of the evidence of other varieties. See especially the 1804 report and accompanying map of Ramon de Anguiano, governor-intendente of Honduras, both of which have been introduced in evidence by Honduras. (References in brief for Honduras, Mediation Record, vol. II, pp. 427–428.)

This ecclesiastical evidence, when taken with the cédula of 1791, seems to counsel for Honduras to supply, in the language of Article VI of the treaty of 1914, "boundaries defined in public documents not in conflict with others of the same kind and of greater force." The cédula of 1791 is "of the same kind" as those of 1563 and 1564, since it defines the jurisdiction of a Province or Intendencia; and as emanating from the same authority at a later date, it is a public document "of greater force" than the two cédulas of the sixteenth century. They are of opinion that it meets the unconvincing and somewhat meticulous specifications of the Guatemalan representative and of his counsel, for a cédula of a later date than those of 1563 and 1564 defining territorial jurisdiction—even if the mediator were not convinced of the soundness of their contention that the cédula of 1564 in repealing that of 1563, before it left in the next mails for the Indies, restored the boundaries therein defined as previously existing. (Brief, Mediation Record, vol. II, p. 405.)

As a result of the cédula of July 24, 1791, the governor-intendente of Honduras was confirmed in his authority over the whole of his Province or Intendencia, with the sole exception of the port and military post of Omoa.

Omoa, the sole exception, was restored to Honduran jurisdiction by the cédula of October 16, 1818, the king in council using the following language (Honduran Exhibit XII, Mediation Record, vol. I, pp. 155–156):

> The king. To the governor, captain general and president of the royal audiencia of Guatemala. Santiago Milla, ex-deputy to the Cortes for the Province of Honduras, informed me on August 22, 1814, that in the instructions given to him by that Province he was directed, among other things, to petition, as he has done, for the reincorporation of the Port of Omoa to the Government of Comayagua, situate to the north and in the territory of that Province * * * In consequence of which, and after hearing above all my fiscal and his general treasury of the Indies, it (the council) consulted me on July 31 last as to what was deemed advisable to remedy such abuses, and being satisfied with its opinion, I have commanded and I do hereby command by this,

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my royal rescript: That the aforesaid port of Omoa shall remain immediately subject to the Government of Comayagua in the manner in which it had been prior to its annexation to Guatemala, without prejudice to the authority to which you are entitled as the superior chief of the Province: And I inform you thus in order that you may make such orders as may be advisable for the fulfillment of this my royal decision, because this is my will.

Counsel for Guatemala did not refer in his brief to the cédula of 1791; but he has insinuated as to the cédula of 1818 that it was never put into effect, bolstering this with a reference to the alleged satisfaction with which Honduras accepted an order of the war department of the Mexican Emperor, Iturbide, dated November 4, 1822 (Mediation Record, vol. II, p. 579). Mr. Anderson did not meet the burden of proving his allegation that the 1818 cédula was never put into effect. Moreover, if such an allegation were to be seriously considered, it would apply with even greater weight to the cédula of 1563 and that of 1564 (as construed by him) upon which his principal relies, especially as Honduras and her counsel have provided an accumulation of convincing evidence showing that the cédula of 1563 was in all probability repealed before it reached the mails for the Indies and, if not, that the legislative, administrative, ecclesiastical, and cartographical history of the remaining two and a half centuries of the colonial history reveals no trace of the existence or application of this cédula. (Brief for Honduras, points I, especially section (2) thereof, and III.) That Honduras ever accepted the order of Iturbide's war department (postdating the year of the uti possidetis, be it noted) has been refuted by Dr. Bonilla with the very document on which Mr. Anderson relied. (Honduran note of June 29, 1918, Mediation Record, vol. I, p. 141.)

II.

BEFORE THE MEDIATOR RECOMMENDS A COMPROMISE BOUNDARY, BASED ON EQUITABLE COMPENSATIONS, HE SHOULD DETERMINE THE LINE OF UTI POSSIDETIS OF 1821: WITHOUT SUCH DETERMINATION, THE ESSENTIAL BASIS FOR ASCERTAINMENT OF THE NECESSARY EQUITABLE COMPENSATIONS WOULD BE LACKING.

In the failure of Guatemala and Honduras to agree upon the arbitration of their disputed frontier by the President of the United States of America, as provided in Article IX of their treaty of 1914, they accepted the mediation proffered by his Secretary of State for the settlement of this frontier on the basis of his recommendations; and in pursuance of such acceptance the present proceedings have taken place. The treaty of 1914 has remained the law of the parties and Articles VI and VII govern the determination of the legal line of the uti possidetis of 1821 and the recommendations of the honorable mediator. The memoranda filed by the special representatives

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of the two Governments harmonize with this theory of the mediation, those of Dr. Toledo Herrarte being distinguished by their emphasis and insistence upon the determination of the frontier on the strict principle of the uti possidetis juris of the year of independence. Thus in his final memorandum of September 20, 1918, Dr. Toledo Herrarte stated (Mediation Record, vol I, pp. 270–271):

The controversy must be examined from a strictly legal point of view in order to establish with exactness and precision the territorial rights of Guatemala and Honduras, and in order to comply with this indispensable requisite, I understand that this study must be made strictly and only upon the bases of the treaty of 1914, which constitutes the law by which we must be governed, and the provisions and stipulations of which have been considered by both parties as the invariable standard to which the whole procedure, after reaching a just solution of the controversy, must be adjusted.

Both the honorable delegation of Honduras and the delegation over which I have the honor to preside have already stated everything they have deemed necessary to establish, according to law, where the boundary line must be established between the two States, and for this purpose they have filed all the briefs and arguments which they have deemed advisable.

This was but a restatement of the position of Guatemala in her representative's other notes, which are extracted and evaluated by counsel for Honduras in their brief, to which the honorable mediator is referred. (Mediation Record, Vol. II, pp. 415–417.)

As a result, this mediation has differed from an arbitration only in respect of the informality of the discussions had with the honorable mediator's representatives and of the memoranda and evidence filed with him and in the inobservance of the peremptory terms of an arbitration. The function of the honorable mediator still remains that of the arbitrator, except that he is granted ample discretion in recommending a compromise line, which the arbitrator would be denied, unless in the course of the arbitration the two Governments should grant it in pursuance of Article VII of the treaty.

Counsel for Guatemala has expressly accepted these views of counsel for Honduras. In his brief he stated (Mediation Record, Vol. II, p. 575):

It is evident from the foregoing considerations that the function of the mediator is to propose for the acceptance of the two Governments a boundary line which will furnish a permanent and lasting solution of their differences in view of their political and economic requirements, taking into consideration their respective contentions and the legal bases for the same with such readjustments as may be required under the system of equitable compensations as provided by article 7 of the treaty of 1914, including such modifications as may be required to make it conform to the best natural boundaries in order that a clear and stable line may be established.

The real distinction to be drawn between mediation and arbitration, as applied to the functions of the mediator in this case, is that for the purpose of reaching a definite boundary agreement through mediation both parties have conferred upon the mediator certain discretionary powers, whereas discretionary powers are not generally conferred upon an arbitrator.

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Again, in his final summing up of October, 1919, Mr. Anderson says:

> The question, therefore, in accordance with the treaty, is a question of domain; the de facto possession can not and must not be taken into consideration.

Further on, in the same document, after reviewing the legal evidence submitted by both parties, counsel for Guatemala adds:

> In conclusion, it can not be gainsaid that, for the determination of the boundaries between the Republics of Guatemala and Honduras, the fundamental bases are the royal order of the Spanish sovereign issued in 1563 and 1564, which fill all the requirements demanded by the treaty of 1914.

So evident a matter would not be dwelt upon, if it were not for the fact that at the conference of January 2, 1920, the representative of Guatemala and his counsel verbally expressed qualifications of the function of the mediator which are inconsistent with the issues joined—be it noted, joined on the initiative and reiteration of the Guatemalan representative—and which if implicitly followed by the honorable mediator might jeopardize the successful outcome of the mediation. These qualifications involved nothing less than the idea that the mediator was free to recommend a frontier without ascertaining the line of uti possidetis of 1821.

While counsel for Honduras have no desire to commit the honorable mediator to any given train of mental processes, they urge that in his recommendations he express his opinion as to the location of the line of uti possidetis of 1821, whether considered as de jure (as insisted by Guatemala) or as merely de facto. They are convinced that he should ascertain this line as the necessary basis for his recommendations of a compromise line and of the reciprocal compensations which will justify the acceptance of such compromise line by the two Republics.

If the honorable mediator does not ascertain what was the line of possession in 1821, he will disregard the provisions of the treaty of 1914, which continues to govern the parties to this mediation; and he will also have no just criterion with which to evaluate the changes in the line of possession which have subsequently taken place. In addition in recommending a compromise line, he will have no means of measuring the reciprocal compensations to which the parties will be entitled under Article VII of the treaty, so far as these compensations are territorial in character.

These preliminary observations premised, counsel for Honduras next propose to refute the arguments of counsel for Guatemala and to show: First, that a mountain chain does not furnish the ideal scientific frontier; second, that the orography of the disputed region is such that the mountain chain proposed by him is not available as a frontier in its entire extension and that there exist other moun-

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tains which far more closely approximate the line of possession both in 1821 and at the present day; third, that this mountain chain as a proper boundary has no support in the cartographical and geographical evidence antedating 1821, and that the evidence of this character postdating the year of independence, which indicates this line, is based upon a cartographical error of a Guatemalan geographer; fourth, that upon the considerations of a politico-economic character urged by counsel for Guatemala, Honduras has greater claim to the region between this mountain chain and the Motagua River than has Guatemala; and fifth, that the honorable mediator, in recommending a compromise line, should so far as possible respect the line of the uti possidetis of 1821, and in so far as he should find it expedient to depart from this line in order to take account of the present-day possession of the parties, he should not recognize any tortious occupations verified since the first boundary treaty of 1845, and he should as to any modern possession admitted, always make provision for equitable compensations, in accordance with the treaty stipulation—in either event taking advantage of local topographical features in the detailed meander of the line.

III.

THE LITERATURE OF POLITICAL SCIENCE AND GEOGRAPHY BY NO MEANS UNIFORMLY SUPPORTS THE GUATEMALAN ARGUMENT FOR A MOUNTAIN CHAIN AS THE IDEAL BOUNDARY.

Mr. Anderson has devoted the major portion of his summing up and his memorandum on the report of the economic survey to a demonstration that a mountain chain furnishes the ideal scientific frontier, in order thus to convince the honorable mediator that he should recommend as the compromise boundary the Omoa-Espiritu Santo-Grita-Gallinero chain rather than the consequently inferior river boundary provided by the Motagua and Managua Rivers.

It must have embarrassed the present counsel for Guatemala that his distinguished predecessors, Marure and Larreynaga, in the proceedings which led to the boundary treaty of 1845, took exactly the opposite stand and argued with equal eloquence for a river frontier. In their instructions of 1844 to the Guatemalan boundary commissioner, Marure and Larreynaga stated (Mediation Record, Vol. I, p. 253):

> From the point at Chucuyales, following the mountain to the Motagua, it forms a boundary, and also the river to its mouth in the Bay of Omoa or Honduras. This boundary must be fixed as certain because it is so stated by Father Juarros at Volume I, page 35, and as such has been recognized in the past by usage and custom. Law 1, title 1, book 5, of the Indies, provides that with respect to boundaries, that established by use and custom shall be abided by and accepted. It also orders that the one decided upon previously by royal

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ordinance and superior orders shall be accepted and abided by without doubt or objection. A river is one of the most important means, therefore, even though it should not be proven that it really is. It should be presumed. It is so stated in the Curia Filipica Mar, Art. River, No. 18. In case of doubt the ends of the jurisdictions are understood to be divided by the river, as stated by Gregorio Lopez, because it is believed that the river was placed by nature as an eternal boundary of the sections.

In support of his contention that a mountain boundary furnishes the ideal boundary, Mr. Anderson quotes from the works of Fawcett and Holdich. These specialists belong to what may be called the military school of political geographers whose premise is that the contact of adjoining peoples produces friction and often war and, accordingly, that the ideal frontier is that which provides an isolating or defensive barrier. (E. g., Fawcett, Frontiers, p. 29; Holdich, Political Frontiers and Boundary Making, pp. 30 and 128.) But even Holdich and Fawcett are agreed that under special circumstances, as for instance in thinly populated and tropical regions or between countries which have not reached a high degree of industrial development, a river frontier may be superior to a mountain line. The river line is easily ascertainable; and it does not require heavy expenses of survey or demarcation and of the upkeep of artificial monuments.

Thus Holdich writes (op. cit., p. 156):

Next to mountain ranges, rivers afford the most tangible line for boundary definition. There is no mistaking the line, there is no waste over artificial constructions in connection with demarcation. Their geogaphical conditions and environment are always better known, and they do very often serve the purpose of a barrier. There are geographical conditions in many parts of the globe where a river line is the only one possible to afford any prospect of permanence and easy recognition. Indeed it entirely depends on these same conditions of environment whether a river is a good boundary or a bad one. Where the surrounding country is a waste of trackless forest or wild upland, and where the river is confined to a comparatively narrow channel in a rock-bound bed, it is a God-sent feature for boundary making and requires no assistance from man. * * *

Again, Fawcett says (op. cit., p. 54):

A river, as a boundary, possesses the one great advantage of being easily recognizable, and hence of needing no demarcation. This advantage is particularly valuable under primitive conditions and in thinly peopled or unoccupied territories, where a recognizable limit is needed and a precise and costly demarcation is undesirable or unnecessary. Some of the North American river boundaries seem to be inheritances from this stage of development. * * *

It is true that Fawcett goes on to say that a valley is a natural unit of population; that it tends to become a place of frequent intercourse; and that the peoples of its banks become more or less assimilated to one another. But the answer to these observations is that in our special case, the population of the Motagua River system has been uniform in race and speech since before the Spanish conquest.

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The inhabitants are of the Chorti race and occupy not only the hydrographic basin of the Motagua River but also spread eastward beyond the mountain chain here under discussion. (Thomas, Indian Languages of Mexico and Central America and their Geographical Distribution, pp. 69, 70; and see linguistic map at the end.) Since the advent of the Spaniards they have also possessed in common the Spanish language and Catholic religion. As the Economic Survey has reported, they entertain fraternal feelings for one another, notwithstanding their respective Honduran and Guatemalan nationalities. (Report, Nos. 118–119.) In our case, accordingly, there exists the reverse of the usual historical development: An uniform race, with the same language, religion, and customs was, through the accident of the Spanish conquest and for reasons of administrative convenience during the colonial epoch, segregated into separate provinces, which since achieving independence have continued as separate sovereign nationalities, and in the course of four centuries have acquired their respective national consciousness. This national consciousness has received the sanction of American international law and is formulated as the principle of the uti possidetis of the year of independence. (Brief for Honduras, Mediation Record, Vol. II, pp. 414–415; and authorities cited.)

Fawcett then goes on to say that with a river boundary, with the advance of civilization it becomes necessary to control the course of the river, to drain its bordering marshes, to improve it for navigation, to regulate its use for water power, irrigation, and town water supply; and that these necessities become sources of friction. The answer to these objections is simple: A special convention can be negotiated between the parties under the supervision of the mediator. There is an ample body of precedents, including, besides the conventions which are actually in force for the various international rivers, the standard regulations adopted by the Institute of International Law at its Heidelberg meeting in 1887 and the special regulations for the industrial and agricultural use of rivers adopted at its Madrid meeting in 1911. (Kaeckenbeeck, International Rivers, pp. 173–187 and passim.) There is also available the American-Mexican experience with the Rio Grande. (Moore, Digest of International Law, Vol. I, sec. 160.)

As a convenient summary of the views of what counsel have designated as the military school of writers, the following passage from Lord Curzon's Lecture on Frontiers (pp. 21–22) may be quoted:

> Accordingly the advantages and disadvantages of rivers as frontiers may be thus stated. The position of the river is unmistakable, no survey is required to identify or describe it, and the crossing places frequently admit of fortification. Rivers are lines of division as a rule very familiar to both parties, and are easily transferred to a treaty or traced on a map. On the other hand, they

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may be attended by serious drawbacks, confronting diplomatists and jurists with intricate problems. Rivers are liable to shift their courses, particularly in tropical countries. The vagaries of the Helmund in Seistan, where it is the boundary between Persia and Afghanistan, have led to two boundary commissions in 30 years. The precise channel which contains the frontier line, the division of islands, very likely new accretions, in the river bed, the determination of drinking rights or of water rights in cases where cultivation is only effected by means of irrigation from the frontier river, the exact identity of the source of a river, if this be mentioned in a treaty or convention, or of its main affluent, or, in a deltaic region, of its mouth, the provision required for navigation, police, and fiscal control—all of these suggest possible difficulties in the acceptance of a river boundary, particularly in new or tropical countries, which can not be ignored. In ancient and civilized States the procedure to be followed in many of these cases is regulated by international agreement or by the law of nations. The general principles regarding the navigation of rivers traversing different States were indeed embodied in articles 108–116 of the final act of the Congress of Vienna, and have been applied by subsequent agreements to some of the principal rivers of Europe, Africa, and America.

The problems mentioned by Lord Curzon as arising out of the shifting of the courses of tropical rivers would only arise in the last dozen kilometers of the Motagua River. International law has developed the necessary rules to cover such developments (Brief for Honduras, Mediation Record, Vol. II, pp. 464–465); and the suggested international convention could conveniently provide for their application. The upper course of the Motagua River and the whole course of its affluents consist of V-shaped canyons which in Col. Holdich's phrase provide a "God-sent feature for boundary making requiring no assistance from man."

But there is not lacking a newer trend of thought wherein the belief is expressed that the future destiny of nations is toward a state of peace; and that frontiers of union and communication will best promote peaceful relations. Thus Prof. Lyde in his recent lectures on "Some frontiers of to-morrow," says (pp. 15–16):

It is, however, not the destiny of the world to be forever at war; war is not even its normal state; and the conception of the rôle of a frontier is already changing, so that in the future—perhaps not the nearest future—the principles underlying the delimitation of a frontier will be such as involve all possible aids to the peaceful meeting of nations, not to their parting.

Three points are of vital importance, as suggested in the introductory chapter: (1) That the feature used as a frontier should be associated not with war, but with peace; (2) that the unit of area should have some direct relation to national sentiment; (3) that inability to assimilate should disqualify any power for territorial expansion. Of these the most important is that the feature used for the frontier should be, as far as possible, one where men naturally meet. Obviously, this is not on water-partings and mountain crests, or in deserts and swamps; and no other science has such claims as geography to say authoritatively what, and where, such natural meeting-places are. * * * All three aspects of the science [historical, political and economic geography] affirm that there are certain lines along which in every latitude people tend naturally to meet in peace; and the most important, the most universal, and the most obvious of

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these is a navigable river—it is also at once indisputable, and costs absolutely nothing to delimit. Along such lines even the most discordant elements have a maximum tendency to concord. * * *

Again, M. Moulin, professor of public international law at the University of Dijon, has said (Litige Chilo-Argentin et la Delimitation des Frontières Naturelles, pp. 51–52):

But when international relations take on a more pacific character, and when nations comprehend at the same time that they have a mutual interest in pursuing among them regular exchanges and in agreeing upon physical obstacles as their political frontiers whose route they define, they recognize in a river this double advantage of being at once a way of traffic and a natural barrier. And it is thus in our epoch that the international treaties which, either by special accord among States or by general convention made by the powers, have attributed territorial limits to new States, have voluntarily chosen the course of a great river as the political frontier. Thus the Danube in the Balkan region, the Oubanghi in Africa, etc. The river is like the tangible image of the modern frontier, which in time of peace allows men and products to circulate freely from either side of the line, and which at the same time marks the contact of two absolute sovereignties, of two impenetrable political organisms, and which, in time of peace as in time of war, should be defended against aggression and invasion.

Counsel for Guatemala has stressed the advantages of mountain chains as the ideal frontier; and by his quotations from Fawcett and Holdich endeavored to leave the impression with the mediator that they are under all circumstances the ideal frontier. It is only just that counsel for Honduras be permitted to complete the picture by calling attention to the disadvantages, which in a sparsely settled country of heavy vegetation are considerably greater than in more settled regions with a more temperate climate.

Thus Lord Curzon has said (op. cit., pp. 18–19):

On the other hand the theoretical superiority of a mountain frontier may be qualified by a number of considerations arising from its physical structure. Of course a range or ridge with a sharply defined crest is the best of all. But sometimes the mountain-barrier may be, not a ridge or even a range, but a tumbled mass of peaks and gorges, covering a zone many miles in width (for instance, the breadth of the Himalayas north of Kashmir is little short of 200 miles) * * *

In every mountain border, where the entire mountainous belt does not fall under the control of a single power, the crest or water divide is the best and fairest line of division; for it is not exposed to physical change, it is always capable of identification, and no instruments are required to fix it. But it is not without its possible drawbacks, of which the most familiar is the well-known geographical fact that in the greatest mountain systems of the world, for instance, the Himalayas and the Andes, the water divide is not identical with the highest crest, but is beyond it and at a lower elevation. * * *

Again, Prof. Camille Vallaux of the French Naval School has written (Le Sol et l'Etate, pp. 380–381):

Mountains seem at first sight more imposing as obstacles than rivers, and also more efficacious as protection, although the majority of chains and of mountain

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masses fashioned and half destroyed by erosion are cut up by a sort of network (quadrillage) of transversal and longitudinal valleys which permit the passage at numerous points from one slope to the other. But where does the central axis of demarcation run which is suitable to serve as a precise political frontier? A close study of mountainous chains shows that it is almost impossible for physical reason to determine this axis. The delimitators have the choice between the line of the separation of waters and the line of greatest altitudes which in general do not coincide; they almost always take the first. But the line of the separation of waters is subject to variation at the points where the erosion from downstream upward is most felt; it is subject to indecision on the high plateaux where the relief levels out and where the waters follow, according to the season, different directions; finally the survey of this line is extremely capricious and political necessities impose frequent corrections. * * * What to conclude from this, unless that mountain frontiers are very truly artificial frontiers, in the same manner as those which run invisible across the plains and which only posts and milestones indicate? Although interpenetrations are rarer across the mountains than in the united plains, they have never lacked them; there are bonds of very ancient and singularly durable relations across the Alps and the Pyrenees; modern circulation, in piercing its tunnels and in constructing its roads, will more and more cause barriers to tumble, will multiply the points of contact and will entirely assimilate mountainous frontiers to those of the plains.

The truth of the whole matter is that the science of geography teaches that every international frontier must be determined on its special facts, respecting the national sentiments of the peoples affected, rather than by any theoretical and à priori consideration of the relative merits of the various types of frontiers. Mr. Dominian has happily expressed this truth in the following passage (Frontiers of Language and Nationality, p. 333):

The preceding remarks should not be considered as implying that a mountain, or a river, or even the sea are to be arbitrarily regarded as frontiers. Lines of water-parting deserve particular mention as having provided satisfactory national borders in history. But in boundaries each case should be treated upon its own merits. There was a time when, in Cowper's words:

> "Mountains interposed
> "Make enemies of nations who had else
> "Like kindred drops been mingled into one."

And yet the passes of the Alps refute the poet's statement. Their uniting function eventually overcame their estranging power. The easterly spread of French language over the Vosges concurs in the same trend of testimony. The imposing mass of the Urals is no more of a parting than are the Appalachians. To be pertinent, it will be necessary, in each instance, to consider the complex operations of natural laws and the process of fusing and building up of nationality brought about by their agency.

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IV.

THE GEOGRAPHICAL REASONS FOR THE MOUNTAIN LINE URGED BY COUNSEL FOR GUATEMALA ARE NOT SUSTAINED BY THE FACTS; AND ON THESE, CORRECTLY APPRECIATED, THE LINE, SO FAR AS A MOUNTAIN FRONTIER SHOULD BE ADOPTED, OUGHT TO RUN ELSEWHERE.

Mr. Anderson's memorandum on the economic survey report contains errors of fact or of appreciation as to the mountain chain of the Merendon, Gallinero, Grita, Espiritu Santo, and Omoa, which would vitiate his arguments for location of the compromise line along it, even if his major premise—the ideal nature of a mountain frontier—were undisputed.

It will be convenient, in pointing out and commenting upon these errors, to group them so as to follow the division of the frontier area into the districts adopted by the report of the Economic Survey. These districts correspond to the sections adopted by the Mixed Boundary Commission which labored in pursuance of the treaty of 1895, except that the Mixed Boundary Commission was dissolved before it surveyed the third section.

1. Mr. Anderson states that this mountain chain runs from the frontier of El Salvador to the Atlantic coast near the port of Omoa, supposing that not only does it touch, but also that it crosses, the Salvadorean frontier near the point designated as Pena de Cayaguanca. He has failed to note that in all the modern maps, which in this case reflect the reality, the mountain called Merendon figures as a part of the Sierra Madre which parts the waters that flow into the Atlantic Ocean and those reaching the Pacific and is in fact a continuation of the American Rocky Mountain divide. The Merendon Mountain, which runs parallel to the frontier of El Salvador and starts from the Guatemalan frontier, from south to north, doubles westward approximately on the parallel of the Cerro de San Jeronimo, passes along it and along Cerro Obscuro and invades Guatemala. From the parallel of Cerro Obscuro begins the Sierra de Gallinero, Grita, etc., mentioned by Counsel for Guatemala. The economic survey in their report confirm the accuracy of this observation (No. 9).

2. The Sierra del Merendon does not, as intimated by Mr. Anderson, cut the frontier of El Salvador, but runs parallel to it, the valleys of the rivers Lempa and Sumpul lying between them and also between said frontier and the Pena de Cayaguanca. Consequently it would be materially impossible to trace the frontier as indicated by him.

Moreover, Cerro Brujo, which is separated from the Sierra Madre by the valleys of the rivers Lempa and Sesecapa and diverts their waters to the Pacific Ocean, is an indisputable boundary point. It

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has been recognized at all times as common to Honduras, Guatemala, and El Salvador, as was thus expressly declared in Minutes No. 5 of July 9, 1908, and No. 6 of the 16th of the same month and year, of the sessions of the Mixed Boundary Commission which labored on the frontier under the treaty of 1895, and whose work was approved by Article XVI of the Treaty of 1914. The fact was also recognized by the Economic Survey (Report, No. 9), in limiting their reconnaissance to the same region which the above Mixed Boundary Commission survey between Cerro Brujo and Cerro Obscuro. The latter mountain is for similar reasons an immutable boundary point. (Minutes No. 17, of March 7, 1910, of the Mixed Boundary Commission.)

Moreover, if the line were run along the Merendon Mountain, it would place in Guatemala the very old town of Ocotepeque, which during the whole colonial epoch and since independence to the present day has been Honduran, as well as the quite ancient villages of Sinuapa, Santa Fe, Concepcion Jute, and Merendon. The report of the Economic Survey (No. 140) confirms the fact that in this first section of the frontier there is no conflict of land concessions made by the two governments, because in reality there exist only grants, more or less ancient, made in Honduras; so that the present day line of possession, which has been actually surveyed, follows the limits of these concessions and has not given occasion for any disputes among the adjoining inhabitants.

Accordingly, Mr. Anderson's pretension that the line should be run along the Sierra del Merendon, must be disregarded.

8. Coming now to the second district of the Economic Survey report: Honduras has proved with all the concessions of lands granted by the ancient Province of Honduras, by the State of Honduras (during the Federation) or by the Republic—extracted in printed Volume III of the Honduran Exhibits—that she is the legitimate owner of the territory comprehended to the left of the irregular line which runs from Cerro Obscuro to the junction of the quebradas of Las Vegas and Sururuin, passing over the Llano del Jicaro and Cerro del Suspiro de Tizamarte. This line is confirmed by concessions of lands granted in Guatemala, bounding with those granted by Honduras, which are also extracted in the printed Volume III above mentioned. All of these concessions, as well as historical authorities like the history by Juarros and the 1844 instructions of Marure and Larreynaga and the official documents from colonial times, declare that the Copan Valley belongs to Honduras. (See brief for Honduras, point V.) In this region there also exist the ancient towns of Copan and Santa Rita (alias Cachapa) and the more modern towns of Cabanas (alias Santa Barbara), Encarnacion (alias Playon) and San Jorge (alias Rincon de Jorge),

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and 33 villages or ranches, all of which have been, and actually are, Honduran. In the region no town is organized as a municipality belonging to Guatemala; and there are only about seven villages or ranches that owe allegiance to Guatemala. The great majority of the inhabitants of the region—5,400 according to the Economic Survey—are Hondurans.

In this district the report of the Economic Survey traced a line from Cerro del Mico or San Isidro to Cerro de Llano Grande, affirming that to the right are to be found only villages which Honduras governs, and that to the left of the line the villages are governed by Guatemala. (Report, No. 33.) This line is arbitrary, because it cuts across lands, titled before 1821 in Honduras, whose inhabitants still acknowledge her sovereignty; but in so far as it insinuates a compromise line, it furnishes an argument against the adoption of the mountain line urged by counsel for Guatemala, which runs about 25 kilometers farther east and cuts that much more deeply into Honduran territory.

If in this second district a mountain line were to be adopted as the compromise frontier, on the basis of the geographical arguments put forward by Mr. Anderson that it furnishes the ideal frontier, then the honorable mediator should prefer and recommend in this region the Copan Mountain as the boundary as far as the Motagua River. The valley of the Motagua River breaks the continuity of the Copan Mountain with the range which on the other side of the river runs, under the name of the Sierra del Mico, in a northwesterly direction until it ends in Cape Three Points.

On the basis of the argument for a mountain line as the ideal scientific frontier, which is so eloquently urged by Mr. Anderson, the honorable mediator should certainly recommend the Copan Mountain as far as the Motagua River. Such a line would work far less injury to vested Guatemalan rights, than would the other line to Honduran sovereignty. Moreover, unlike that line, it has the support of official documents, among others the Guatemalan instructions of 1844, which, as has been pointed out in the brief for Honduras, have all the weight of an admission against interest. In their instructions, Marure and Larreynaga wrote (Mediation Record, Vol. II, pp. 252–253):

> This valley (the Copan) is the divisor between Guatemala and Honduras, according to Father Juarros, Volume II, page 153. * * * Along Copan there passes a cordillera, which commences to the south of Mita, and which is commonly called Merendon, and intersects the Motagua, and extends to the east of Port St. Thomas, to enter Cape Three Points, called Punta de Castilla or Manavique. The dividing line between Honduras and Chiquimula strikes this mountain before it (the mountain) intersects the Motagua, the line passing through the north of the village or hamlet of Chucuyales, and it is a point which should be examined and marked out very scrupulously. This mountain, which the English and French maps call "The Copan," and which

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is not marked continuously in that of Rivera, forms a landmark toward Sensenti, but not in the rest of its course, for which reason it is necessary that the commissioners shall fix precisly the intervening section.

From the point at Chucuyales, following the mountain to the Motagua, it forms a boundary, and the river to its mouth in the Bay of Omoa or Honduras. * * *

4. With respect to the third district, it can not be disputed that upon geographical considerations and having regard for the present-day possession—but excluding all tortious occupation—the line after leaving the Copan Mountain near the confluence of the Managua River and the River Motagua should follow the latter stream to its mouth.

If the honorable mediator should recommend either the Copan Mountain, the Copan River, or the Managua River as the compromise frontier in the second and third districts, he could only reach the Sierra de Grita-Gallinero-Espiritu Santo-Omoa by cutting across country at a sharp angle and with an artifical boundary which would disregard both the line of uti possidetis of 1821 and the present-day line of possession. As to the uti possidetis of 1821, the evidence submitted to him by the Honduran representative—it is compiled and evaluated in Point V of the brief for Honduras—proves conclusively that the Copan Valley lay entirely within Honduras at the close of the colonial era. As to the present-day line of possession, the honorable mediator may be referred to the report of the Economic Survey (Nos. 109–116), with the request that he take into consideration the fact, as noted elsewhere in the present memorandum, that with the exception of Las Quebradas, the points occupied by Guatemala in this district, to the west of the Motagua River, have been seized by military force, nothwithstanding the treaty of 1895, which in legal effect required respect by the parties of the statu quo ante pending a settlement of the frontier. Las Quebradas, the sole exception, was occupied by Guatemala at some time between 1882 and 1892. But even this occupation was tortious, having taken place after the boundary dispute had arisen, and therefore must not be recognized by the honorable mediator, even in recommending a compromise line.

V.

THE MOUNTAIN BOUNDARY NOW PROPOSED BY COUNSEL FOR GUATEMALA, SO FAR AS IT RESTS UPON THE TESTIMONY OF MAPS AND GEOGRAPHERS, HAS NO BETTER BASIS THAN A CARTOGRAPHICAL ERROR OF A GUATEMALAN GEOGRAPHER.

For this conclusion counsel for Honduras are indebted to Dr. Williams. It is demonstrated in her reply to Mr. Anderson's criticisms of her cartographical and geographical report. Accordingly the honorable mediator is referred directly to her remarks in her

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reply which is attached to the present memorandum (infra, pp. 100–107).

Counsel for Honduras also are of opinion that Dr. Williams's reply provides an adequate and convincing reply to Mr. Anderson's criticisms of her original report and fortify the conclusions reached by her therein as to the effect and bearing of the geographical and cartographical evidence on the extent of Honduran jurisdiction, both in the colonial epoch and thereafter.

The arguments deduced by counsel for Guatemala from the map published by Byrne in 1886 do not deserve serious consideration. Without stressing the fact that this map has not been placed in evidence by the Guatemalan representative—who in this particular has been exigent in requiring the submission of the maps upon which Honduras has relied—it may be said that the official character of its author is not proven and that it has not been accepted by Honduras. In order that the map might be considered as evidence of an abandonment of sovereignty, Guatemala would have to produce an official act of the Honduran Government approving it. Moreover, if the map referred to is the one with which the Honduran representative is acquainted, it does not designate as the frontier the Sierra of Omoa-Espiritu Santo-Grita-Gallinero, but rather a frontier supposed to lie to the west of the Copan Valley which approached rather the mountain described by Marure and Larreynaga in their instructions, with the difference that it does not end in the Motagua River, as they indicate, but near its mouth.

VI.

THE GUATEMALAN ARGUMENTS FOR THE LINE OF THE MERENDON, GALLINERO, GRITA, ESPIRITU SANTO, AND OMOA MOUNTAINS, SO FAR AS BASED ON ECONOMIC AND POLITICAL CONSIDERATIONS, ARE OUTWEIGHED BY THOSE WHICH MAY BE URGED IN BEHALF OF HONDURAS.

Counsel for Honduras propose to summarize the arguments of this character offered by counsel for Guatemala and to refute them with like considerations favoring their client:

(1) Much Weight is Placed by Counsel for Guatemala Upon the Poor Means of Communication Between the Rest of Honduras and the Disputed Region, and the Present-Day Fact that Those With Guatemala are Much Easier. From This Contrast, the Consequence is Deduced of the Commercial Dependency of the Region on Guatemala and Therefore of its Manifest Destiny as an Appanage of This Country.

The first flaw to be noted in this argument is that Mr. Anderson proposes to include in Guatemala the district of Ocotepeque, which is

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separated from the rest of the region by the Sierra Madre. It would, therefore, logically follow that as this district undoubtedly has greater facilities for commerce with El Salvador, it should be annexed to this Republic. Moreover, since all of Honduras is mountainous country, with difficult communications, the argument would equally hold good for the loss of its independence and its partition among its neighobrs. As regards the Ocotepeque region, Mr. Anderson's arguments admit of a true reductio ad absurdum.

Thus, since communications and commerce of the first district, including Ocotepeque, are with El Salvador, along and across the Sumpul and Lempa Valleys, the Guatemalan railway does not serve the district.

As regards the second district and the southern part of the third district: it is true that at the present time they are nearer to the Guatemalan railway than to the Honduran railway. But this would not now be the case if Guatemala had not, by military force, paralyzed the continuation of the Cuyamel Railroad. Honduras has had, and still has, the intention of continuing this line up the Motagua Valley into the Copan region. In addition, the Cuyamel Fruit Co. has a concession from Honduras to extend its line over the cordillera of Omoa, etc., and communicate the third district with the valley of the Chamelecon River, tying the district to the center of Honduras. This network of railways will thus constitute the commercial artery of both the second and third districts, and will have for its outlet the port of Omoa, which Mr. Anderson recognizes as excellent. Accordingly, on these same grounds of economic and political policy, Honduras needs, and can not and ought not to renounce, her sovereignty over the eastern slope of the Motagua Valley, which must serve as the roadbed of this railroad along the greater portion of its route.

(2) It is Argued by Mr. Anderson That Guatemala Ought to Have the Region West of the Mountain Chain Under Discussion, Because She Needs it for Her Political Unity and in Order to Maintain Her Integrity.

In order for the honorable mediator to accept this solution, he would have to favor solely the interests of Guatemala, without taking into account those of Honduras. This it is not difficult to demonstrate.

Even if Guatemala had with perfect right constructed her railway, Honduras would still need to conclude and protect her railroad on the right bank of the Motagua River. Moreover, if Guatemala considers this river and her railway as her natural transportation route to the Atlantic coast and requires exclusive control of the

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region for military and strategic purposes, Honduras also is entitled to the same argument with reference to the same river and her own railway.

But the counsel for Honduras are not agreed with counsel for Guatemala that such exclusive control is a necessity. There are many countries which have common dominion over the rivers which separate them. For examples it is not necessary to go further afield than Central America. Guatemala herself does not feel her integrity menaced, or her political and economic independence jeopardized, because she does not enjoy the exclusive dominion of the Paz River which separates her from El Salvador, or of the River Usumacinta, which separates her from Mexico. It would be unjust to attribute to Honduras any political ambitions because she desires to conserve a territory which she has possessed during centuries; and not to attribute such ambitions to the country which wishes to acquire the same territory simply because in very recent years she has come to believe that she needs it.

Counsel for Guatemala, relying principally on the argument of her security, rejects rivers as a frontier line with Honduras, but only with Honduras, and calls for the summit of the cordillera, because it is easier to defend. The answer is that Guatemala need not fear aggression on the part of Honduras. It is the weaker and less populated country and on various occasions it has suffered aggressions from Guatemala. But as conflicts in Central America have not been wars of conquest, the victor has not demanded territorial compensations. Even the last war waged by Guatemala on Honduras in 1876 involved no boundary question, although it is true that at that time the dispute was reduced to a narrow area in the populous region; and in the region of the Motagua River there was no question, since the river was recognized as the boundary de facto. These antecedents, taken by themselves, would give Honduras the right to reject the boundary now concretely proposed by counsel for Guatemala; since once her powerful neighbor were placed on the summit of the cordillera, she could dominate the passes, fortify them in her favor, and descend upon Honduras at will On the other hand, with the frontier fixed in the lower area of the river, the Hondurans could detain the invaders at the foot of the mountains and in case of necessity fall back upon the mountain passes.

Counsel for Honduras regret urging these considerations, which are forced upon them by the other party. They would have preferred to discuss this frontier question as a purely legal question, in the manner in which such disputes are settled among the States of our own Federal Union.

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(3) COUNSEL FOR GUATEMALA ARGUES THAT BECAUSE THE DISPUTED REGION IS THINLY POPULATED—NOT EXCEEDING TEN PERSONS TO THE SQUARE MILE—IT MAY BE DELIVERED TO GUATEMALA WITHOUT SERIOUS INJURY TO HONDURAS.

This fact gives no preferential right to either of the parties. Moreover, Honduras denies, as intimated by Mr. Anderson, that the inhabitants would prefer to belong to Guatemala. Counsel for Guatemala affirms the fact, without any basis therefor in the Economic Survey report. The Survey limited themselves to reporting the statement of the inhabitants of both countries that they greatly desired to see the boundary question settled amicably—a very natural desire because they have suffered most the prejudice which the boundary disputes have entailed. Mr. Anderson failed to add that there was no doubt in the minds of the inhabitants as to where the frontier runs; and, be it noted, that it is to be found in a region far removed from the cordillera proposed by him. Otherwise the Economic Survey could not have stated that in the whole disputed region the conflicting area of land concessions granted by the respective Governments totaled less than 178 square miles. (Report, No. 140.)

(4) COUNSEL FOR GUATEMALA BASES HIS CLAIM TO THE TERRITORY IN THE LOWER PORTION OF THE DISPUTED REGION, ON THE FACT THAT THE GREATER AREA OF LAND CONCESSIONS HAS BEEN GRANTED BY GUATEMALA.

In thus arguing, counsel forgets that on various occasions the Guatemalan representative has declared—and that he has echoed the declaration in his memorandum—that in this mediation possession de facto must have no weight as against strict legal right, even though such possession should have in its favor the duration of centuries; and this declaration has been accepted by Honduras, at least for the period since 1821, the date indicated by the treaty of 1914 as the year of uti possidetis. He also overlooks the fact that the major number of the concessions granted by Guatemala have been granted ad hoc, since the conferences on the frontier from 1908 to 1910. Counsel for Honduras are not acquainted with the titles issued by Guatemala and can not discuss them because they have not been filed in these proceedings by the Guatemalan representative. Accordingly, so far as the politico-economic arguments of counsel for Guatemala are based upon these titles, they should not be considered by the honorable mediator.

On the other hand, these same arguments are available for Honduras, since her representatives have produced duly certified copies of the land titles granted within her territory, and in addition have

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for the convenience of the mediator filed a printed volume wherein the titles are extracted.[1]

The Economic Survey were unable to take note of all the land concessions granted by the two countries. (Report, No. 140.) Since no representative of Honduras accompanied the mission except in the last few days, it may well be that the Guatemalan engineers have exhibited a greater number of concessions in the disputed region. This would result, because, as counsel for Honduras are informed, instead of respecting the status quo ante, pending adjustment of the dispute, Guatemala made haste, since 1895, and mostly in the year 1911, to grant numerous concessions in the third district, undoubtedly proceeding on the theory that such grants would be considered as indicia of occupation and thus improve her claim to the region.

In striking contrast, Honduras has, since the signing of the boundary treaty of 1895, in general abstained from granting new concessions in the region. Nevertheless, there are pending in the respective land office of Honduras many applications for concessions in the third district upon which no grants have been issued, notwithstanding the fact that some of the lands applied for have been actually surveyed.

(5) Counsel for Guatemala Endeavors to Capitalize the Recent Occupation of Certain Points in the Disputed Region by Guatemalan Forces.

In the economic survey report (Nos. 114, 115, 116) are mentioned the military posts which Guatemala and Honduras have in the lower portion of the Motagua Valley, that is, from the River Morja. To judge from the situation at the end of 1918—as it appears in data which the representative of Honduras presented to the honorable mediator in requesting the retirement of forces introduced by Guatemala in recent years—the presence of Guatemalan soldiers in the territory to the east of the Motagua River, instead of founding a right thereto, shows the system which Guatemala has adopted to achieve de facto occupation, notwithstanding that such occupation is vitiated by the double defect that it has been effected by violence and during the operation of treaties which preserve the status quo ante, and as counsel for Honduras are informed during the course of the present mediation. Dr. Bonilla, in his note of December 11, 1918, answering the honorable mediator's proposal for the dispatch of a technical commission, renewed his insistence that the Guate-

[1] Certified copies of extracts from the land titles and of other documentary evidence submitted by Honduras, also various original documents, are to be found in a box delivered, with its key, to the State Department. The originals of the most ancient titles are also deposited in a Washington vault, subject to the order of the representative of Honduras. If it is desired, he is prepared to submit them to the honorable mediator.

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malan troops be withdrawn, in order that the constant danger of armed conflict created by the continuance of these troops might be avoided. (Mediation Record, Vol. II, p. 591.)

(6) Counsel for Guatemala Argues that the Interests of the Cuyamel Fruit Co. in the Disputed Region are not Honduran but American, and Therefore Should not be Taken into Consideration.

Counsel for Honduras are astonished that this argument should be put forward, because it applies with equal force to the interests of the United Fruit Co. and to the interests of the Guatemalan Railway. Both of these enterprises are entirely American in respect of capital and management and, what is more, they are the only enterprises which operate under Guatemalan auspices in the valley of the Motagua.

Moreover, there is a difference in favor of the Cuyamel Fruit Co. It carries on operations only in Honduras, and therefore would have no motive to desire that its properties, either in whole or in part, should pass to Guatemalan sovereignty. In contrast, the United Fruit Co. has properties in both countries, with the further circumstance that those in Honduras are more important than those in Guatemala and have a better future. Accordingly, it should be indifferent to this company what portion of its properties should remain in the one country or in the other.

While it is true that the Cuyamel Fruit Co. was organized under this name in 1912, its operations date from 1902 when a concession was granted by Honduras to a third person acting for the same interests. In addition, among the lands exploited by the Cuyamel Fruit Co. is to be found the hacienda of Cuyamel, surveyed in Honduras during the epoch of the Central American Federation, which extends as far as the old mouth of the Motagua River. This hacienda was recognized by the Oidor Rodesno in 1770 as one which belonged to the Spanish Crown, comprehended in the jurisdiction of Omoa. (Honduran Exh. VII.) The hacienda was also the object of a Honduran deed of sale in 1822, wherein it appears that the land was located in the same jurisdiction. (Honduran Exh. XXV, No. 20.)

The notes exchanged by the American chargé d'affaires with the Government of Guatemala, were not known to the representative of Honduras until he learned of their existence from the memorandum of counsel for Guatemala. The notes could be taken to show only that the Government of Guatemala undertook to suspend the further operations of the United Fruit Co.—an undertaking which, the honorable mediator will note, the Guatemalan Government has not fulfilled. On the contrary, it has taken steps to paralyze the operations

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of the Cuyamel Fruit Co., even to the extent of employing armed force. The policy of Honduras in this respect has been consistently to the contrary, since her Government has believed that the development of the disputed region should not be impeded. Honduras has taken the view, in accordance with international law and the 1914 treaty, that such development could not alter the vested rights of either party, and that the territory thus improved would in the sequel pass to the sovereignty of that Government which should prove to be entitled thereto; and that the title, and even the simple possession, of the interested concessionaries, would be respected to the extent that the concessionaries should have the territory under cultivation or should otherwise have permanently improved them. (Infra, pp. 60–61.)

(7) It is Not Correct to State, as is Assured by Counsel for Guatemala, that Honduras has no Political, Commercial, or Economic Interests of Importance in the Region Between the Mountains and the Motagua River.

With respect to the first and second districts, counsel for Honduras have already had occasion to state what are the Honduran interests of this character. (Point IV above.)

With respect to the third district, the honorable mediator should note that there is to be found in it the town of El Paraiso, which was erected by Honduras into a municipality before the treaty of 1895; and that upon this municipality are dependent the villages of Agua Buena, Agua Caliente, Achotes, Arcos, Canas, Chachagualia, Chapulco, Cisne, Desmontes, Managua, Morrito, Navedad (Los Ranchos), Piedras Gordas, and other villages and ranches, among them one village whose dwellings were burned by the Guatemalans after the Economic Survey returned from their mission. In this region are also to be found the ancient Honduran port and municipality of Omoa and the municipality of Cuyamel, together with the ranches which have grown up along the railway line that runs from Omoa to Rio Nuevo.

The honorable mediator is also requested in this connection to refer to the brief for Honduras, section 5 of Point VI (Mediation Record, Vol. II, pp. 462–463), in which counsel for Honduras discussed the diplomatic exchanges between Guatemala and Honduras which resulted in the treaty of 1895. Here he will find reference not only to El Paraiso and some of the villages above mentioned, and to the Honduran towns of Santa Cruz and Los Chajales and the villages of Tapesco and El Chorro, but also the concession of 3,000 manzanas (5,250 acres) granted by the Honduran Government in October, 1893, to a Dutch company. This concession, called "La Esperanza,"

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on which the Dutch company had a tobacco plantation, is located between the Jubuco and Morja Rivers, fronting on the latter river. It is indicated on the map submitted by Honduras, and also on those prepared by the economic survey.

In this region Guatemala has only the villages and ranches which it has been progressively seizing, or which have been installed on unoccupied land by Guatemalans who as such have declared in favor of submission to their country of origin. The honorable mediator should also note that all of these Guatemalan villages and ranches have sprung up since the treaty of 1895, with the sole exception of Las Quebradas, which Guatemala had occupied previously, that is, at some time between 1882 and 1892. Las Quebradas is not mentioned in the electoral census published by Guatemala in 1882 (Guatemala: Anales Estadisticas), but is claimed for the first time in 1892 by the Guatemala statistical office. (Guatemala: Demarcación Política.) In this connection the honorable mediator is asked to recall the circumstance, which appears in the Honduran evidence, that only in 1863 did Guatemala seize by armed force the territory between the Motagua River and Lake Izabal, removing the authorities of four Honduran villages located near the lake. It further appears from the evidence submitted by Honduras that at that time Guatemala did not even possess the right bank of the River Motagua and that it could have nothing on the left bank. The mediator is referred to Honduran Exhibits XVII (*a*), XVII (*b*), No. 7, XXI and XXV, No. 22.

Accordingly, it is not true that Honduras in this region has no interests except those of the Cuyamel Fruit Co. On the other hand, Guatemala has no other interests in this region than those represented by the United Fruit Co., which, besides, commenced operations on the right bank of the Motagua River long after Honduras had granted the original concession which the Cuyamel Fruit Co. is exploiting. Honduras did not disturb these operations of the United Fruit Co., because, as already related, it did not believe that they would prejudice its sovereignty to the region, and because since 1894 she had protested in diplomatic notes addressed to Guatemala that she considered as indisputably hers the territory on the eastern bank of the Motagua River from the mouth of the Managua River.

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VII.

IN RECOMMENDING A COMPROMISE BOUNDARY THE HONORABLE MEDIATOR SHOULD, SO FAR AS POSSIBLE, RESPECT THE LINE OF UTI POSSIDETIS OF 1821; AND IN SO FAR AS HE SHOULD DEEM IT EXPEDIENT TO DEPART FROM THIS LINE, HE SHOULD DISREGARD ALL PRESENT-DAY OCCUPATIONS VERIFIED TORTIOUSLY OR SINCE THE DISPUTE OVER THE TERRITORY AROSE, ALWAYS MAKING PROVISION FOR RECIPROCAL EQUITABLE COMPENSATIONS.

Counsel for Honduras have herein above had occasion to refer to the insistence of the Guatemalan representative and of his counsel that the honorable mediator make his recommendations on the basis of the strict uti possidetis juris of 1821; and to show that this step is logically necessary in order that he may with justice to both parties, in recommending a compromise line, make proper use of his discretion as a mediator in applying the principle of equitable compensations, which their representatives have conferred upon him in pursuance of Article VII of the 1914 treaty (Point II above).

It is now proposed to discuss the actual problem of the honorable mediator in recommending a definite compromise frontier, doing so in the light of the principles of international law which are applicable and of the topography and politico-economic conditions of the disputed region as developed herein above.

At the outset counsel for Honduras desire to point out that the deductions made by Mr. Anderson from his quotation of the boundary recitals contained in the Honduran constitution of 1839 and from his citations of like provisions in the subsequent constitutions of Honduras by no means dispose of the Honduran claim to the territory west of the Motagua River upon the principle of the uti possidetis juris of 1821. If the coast region between the alcaldia mayor of Verapaz, Golfo Dulce, and Belize was unorganized territory in the closing years of the colonial epoch under the jurisdiction of the intendente of Honduras (see the evidence collected in Point VII of their brief), then the most that these provisions of the Honduran constitutions could be taken to waive would be the claim of Honduras to the coast region west of Golfo Dulce (or Lake Izabal) and as far as the frontier with British Honduras. The recital in the early Honduran constitutions that the Republic was bounded "on the west by Guatemala" would still hold true. Honduras has, in this mediation, offered evidence from Guatemalan sources that as late as 1863 Honduras authorities were governing four villages near Lake Izabal. (H. note of August 27, 1918, Mediation Record, Vol. I, pp. 226–227.) If this declaration in the early Honduran constitutions, in Mr. Anderson's words, "finally and conclusively disposes of any

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claim on the part of Honduras to jurisdiction as far as Belize," like weight must be given to the declaration in the constitutions and enabling laws of Guatemala as disposing of any claim by Guatemala to the region east of the Motagua River. (See brief for Honduras, Mediation Record, Vol. II, pp. 411–413.)

In their brief for Honduras counsel have referred to the rules of international law regarding the nonprescription of litigious territory and the preservation therein of the status quo ante pending settlement of the dispute; and they have shown, in the light of the boundary treaties of 1845, 1895, and 1914 that the frontier region between the two countries has meanwhile been clearly in litigation. (Mediation Record, vol. II, p. 417.)

Strictly speaking, the rules of international law regarding the acquisition of title to territory by prescriptive occupation have no application to the American continents. Here there is no territory which may be regarded as res nullius and therefore open to prescription through adverse possession running over a term of years; and therefore the principle which has been elaborated by European publicists for the partition of Africa and parts of Asia and Oceania, can properly have no application. The point has been cogently expressed by Don Alejandro Alvarez, professor of law in the University of Chile (Revue Gen. de Droit Intern. Public, vol. X, pp. 652–653):

> The difficulties between European States concerning their colonial possessions relate, in the majority of cases, to territories which constitute res nullius, with reference to which occupation is not only permitted, but even confers rights of which it is necessary to take account. The titles of these States for the delimitation of the frontiers of their possessions, of their zones of protectorate or of their hinterland, derive in effect from occupation, which is a purely material fact, and not from an anterior title. They therefore themselves create their titles, and thus, properly speaking, there should be no question of litigious zones by virture of titles produced by two or more States, as this occurs in America. From this it results that the conflicts between these nations relative to the occupations of territory, however acute they may be, are settled by conventions. And these conventions the number of which is great, fix the frontier in a precise fashion; because these States, if they have to make the delimitation of unexplored territories, realize it by means of an ideal line determined according to the latitude and longitude. Nothing of this sort takes place in America. We have said elsewhere (Diplomatic History of the American Republics and the Conference of Mexico, pp. 14 and 28) that, according to the Monroe Doctrine, tacitly accepted by the Latin-American States, one should consider the American continent as constituting a unity, belonging entirely to the States actually existing in America; whence it follows that there should be no question there of vacant territories: all, even those which are still unexplored, must be reputed as occupied and to belong to one sovereign and independent State. One, therefore, can not speak in America of the acquisition of territories by occupation, much less of a protectorate or hinterland.

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Alvarez then goes on to say that the American States are almost never in accord as to the extent of their domains, that each, in order to pretend against the other to the possessions of vast lands which it occupies or which are unoccupied, relies upon the uti possidetis of the colonial epoch or upon a boundary treaty, made generally without an exact knowledge of the territory claimed. It is thus at the present day that, on the subject of disputed territories, arise in America the questions, first, of ascertaining which of the two States in litigation is the exclusive sovereign of the litigious portion; and second, of determining the respective rights and duties of the States in the litigious zone during the pendency of the dispute. (Ibid, p. 653.) He then proceeds to define these rights and duties, postulating three possible situations: (1) Neither of the States is in possession of the disputed territory, at least not in a sufficient fashion; (2) both States are in possession; and (3) one of the States is in possession.

In the first situation Alvarez applies the following rule (Ibid 655–656):

> The rule which is imposed in this first hypothesis, is that the States should abstain reciprocally from all acts of sovereignty, even necessary acts, unless the exercise of these acts by one of them does not injure the interests of the other. The reason is simple. To permit one of the two States to exercise on the contested domain an act of sovereignty, would be to ignore the pretensions of the other State to this domain; would be to pre-judge the solution of the litigation in favor of the first, by placing the second State in a situation of inferiority as regards the territory; would be, in fine, to tolerate on the part of one State with regard to the other a veritable provocation.
>
> But, as we have said, an exception should be made to this rule for the necessary acts of sovereignty which, by their nature, are not susceptible of injuring the rights of the other State. And this exception justifies itself: such a necessary act of sovereignty could not be a motive for complaint for this other State, because an act of this sort is as well in its interest as in that of the State which exercises it, and the act does not place it in a condition of inferiority.
>
> Let us apply this double principle. It will follow therefrom, first, that each one of the States should abstain from occupying in any manner the disputed territory, from granting concessions therein, from founding cities, from raising fortresses, upon penalty of the annulment of the concessions or the demolition of the works if the other State demands it. In effect, despite their utility, these are not acts of sovereignty which it is lawful to accomplish.
>
> But in the second place and inversely, it is permissible for a State to exercise the police power, to see to the maintenance of order and of hygiene in the litigious zone. * * *

In the present case, this first situation discussed by Alvarez does not exist, since all of the region in dispute has been in the possession of one or other of the parties.

In the second hypothesis—where both disputant States are in possession—Alvarez states the rule to be:

> In this hypothesis, when each one of the two States has in good faith made occupations of territory which in the sequel give rise to difficulties, the one

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and the other should respect the acts of sovereignty respectively accomplished upon the litigious territory before the birth of the litigation. The reason is that here we have a case of a possession in good faith which it was not possible to alter. But, once the conflict has been declared, each should abstain from new acts of sovereignty in the contested zone, as in the first case which we have indicated. In consequence, if cities have been founded, or works effected upon the territory by one of the States before the litigation, they should be maintained, without right on the part of the other State to intervene in the administration of these cities or to demand the demolition of these works.

In the present case, this second situation discussed by Alvarez applies to the region between the Motagua River and Lake Izabal. The coast along the Gulf of Amatique and the territory in the interior to the north of Lake Izabal passed into possession of Guatemala, in the years immediately following Independence, in circumstances as to which it has been impossible to produce evidence. It was only in very recent years that Guatemala constructed in this region Puerto Barrios and the appurtenant railway. It has already been noted hereinabove that Honduras exercised jurisdiction over the region near Lake Izabal until her authorities were removed in 1863 by the military forces of Guatemala.

In the third hypothesis—where one of the disputant States is in possession—Alvarez defines the rule as follows:

In this case it is the State in possession of the territory, become litigious, which should there exercise the entire sovereignty, to the exclusion of the claimant State. The former, in effect, already exercises the sovereignty: to admit that the mere arising of the litigation could embarrass its action, would be to place it in an unfavorable condition by prejudging in some degree the solution in favor of the claimant State. If the State in possession should not continue to exercise its sovereignty, the international situation of the populations of the litigious territory would moreover be quite abnormal. All that the claimant State can and ought to exact in this hypothesis, is that the other State should not accomplish any act of a nature to injure its rights. * * *

There is another question that, in order to be complete, we must yet consider. This is that of the rights which can appertain to a State which has founded cities or constructed works upon the territory which, through the arbitral award, is found to be returned to the other litigant State. In this question as in the preceding, it is only possible to construct a theory by having recourse to the principles of international law.

One could not say here that the territory is annexed to one of the States, because the award has had no other effect than to decide to which of the two it belonged. Whence it must be admitted that the works have been effected without right by the State which has lost. But ought not this State to have the right to a certain compensation for the improvements with which it has endowed the litigious territory? Apart from every question of the nationality of the inhabitants, the difficulty does not cease to be delicate and it does not seem ever to have been studied by the authors of the law of nations. It is, in our opinion, impossible to apply to this difficulty the theory of the improvements made by a possessor of good faith, or that of the quasi-contract of enrichment without cause, because these are theories of pure civil law. Here is how, according to us, the difficulty should be resolved. If the arbitrator has discretion-

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ary powers (le pouvoir d'amiable compositeur), he should, in the award itself whereby he transmits the territory to one of the States, accord to the other an indemnity equivalent to the expenses incurred by him, which indemnity moreover may be settled in money or by the adjudication of a portion of the territory itself. * * *

This third situation applies in the present instance to the region which lies to the south and east of the Motagua River. Honduras possessed the region from colonial times and continued to occupy it exclusively for many years after the treaty of 1845.

Counsel for Honduras feel that they are justified in quoting extensively from the monograph of Prof. Alvarez, because it contains the most complete exposition of the rules of international law known to them which are applicable to the present mediation. The rules thus formulated have received the approval of European publicists. (E. g., Moulin, "L'Affaire du Territoire d'Arc," Revue de Droit Intern. Public, vol. XI, pp. 181, 184.) Moreover, they obviously have a very direct bearing upon the solution of the problem of the honorable mediator in the present case. Thus they indicate that to the extent that either Guatemala or Honduras has been in undisputed possession of any portion of the region since a period antedating the dispute, such possession should be recognized by an arbitrator enjoying discretionary powers—this being the situation of the present mediator by express assent of counsel for Guatemala. They further indicate that Guatemala, to the extent that she has forcibly occupied, or granted concessions for the exploitation of, any portion of the disputed region not in her exclusive possession from a date anterior to the arising of the dispute, has attempted to prejudge the solution of the case and should not be permitted to profit by the act. Thus the Guatemalan authorities must vacate Las Quebradas; and the United Fruit Co. and other concessionaires as to their concessions acquired over this region from Guatemala, as well as Guatemalan citizens or others who have squatted upon lands therein, must, if they are to be permitted to remain, recognize the sovereignty of Honduras. Furthermore, Guatemala will not, upon surrender of its claim to the region, be entitled to any money indemnity, because it has been put to no expense in connection with these private enterprises, to say nothing of the fact that the occupation here under discussion was countenanced by Guatemala, during the time when Honduras had peaceful and acknowledged exclusive possession of this territory which only subsequently became litigious.

It is appropriate here to remind the honorable mediator, that the treaty of 1914, by its Articles VI and VII, expressly adopted these principles of international law, for application to the settlement of the present dispute.

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In the older literature, and doubly valuable by reason of the fact that they were formulated for the demarcation of the frontier under dispute in the present mediation and that they were prepared on behalf of Guatemala, exist the instructions of Marure and Larreynaga. It is not necessary to quote their instructions for the section of the frontier between the common boundary of the two parties with El Salvador. That section has been actually delimited by the mixed boundary commission working in 1908–1910, and their work was approved by Article XVI of the 1914 treaty—the criticism of Dr. Toledo Herrarte to the contrary notwithstanding. On the remaining sections of the frontier the honorable mediator may profitably consult the following significant remarks of these instructions (Mediation Record, Vol. I, pp. 249–250):

The boundaries of the bishopric of Honduras, and those of any other are well known, as every town, valley, hamlet, estate, and farm knows where it must go for the administration of the sacraments, for its marriages, baptisms, interments, attendance at church, tithes, first fruits, and other religious obligations, and knowing this one knows the political boundaries, which are the same as the ecclesiastical. The only ones respecting which there might be a doubt are the places in between and unpopulated, which might lie between two bishoprics, but law 3, T. 7, L. 1, of the Indies, decides the question. It provides that dioceses shall have a territory with a radius of 15 leagues, and that if any should lie between them it should be divided in half. * * *

This rule of dividing in the middle uncultivated and unpopulated lands has its exceptions, as have all general rules. One exception is that if the residents are agreed in recognizing a specified boundary, that shall be respected as the true one and not a new one, because the ancient one is always the best, because it is established by time, in which case, although such boundary should not fall in the exact center of the territory to be divided, it is nevertheless to be preferred. The agreement of the residents, it is understood, is that of past generations, tacit or express, or by free acts occurring once or repeated, proved by science, by ancient books, writings which have not been litigated, and even by poets. The Greeks and their neighbors used to prove their boundaries by Homer. Tradition (fama) is good proof, as decided in chapter 13 of the Decretales, Title "De probatio," explained by its commentator Manuel Gonzales. In this matter reasoning is admitted in evidence, which thing is not admissible in other judicial suits. Another exception is where a permanent river lies in between, or a mountain range, hills, or ravines, which are the best natural boundaries, which none can question, change, or remove, and which seem to have been fixed by nature, and when there are such, even though they are not in the very middle, they should be selected even though one of the parties should lose some territory, because it is justly permitted in this case to the surveyors and experts to give and take from one or the other of the parties.

Further along Marure and Larreynaga recommend (Ibid, pp. 251–252):

There oral information will be taken of the most reputable residents that should be found, as to which is the boundary between the two States, known and reputed as such, and they shall be asked where did they receive the administration of the sacraments and of justice, because these two points must

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establish the rule, and in case they vary they shall state cases and facts. If they should agree, and also the two commissioners, that boundary will be considered as fixed. This shall be understood in the case that residents of places on both sides of the frontier shall have been examined, or if that should not be possible, when the commissioners shall have arrived at a decision as to what is the truth. If the boundary reputed to be such should be a range of mountains, hills or hillock of a hill or highland, height, or some large prominent river, or a deep stream or ravine, they shall be selected preferably even though they do not run in the very center. But if it should be level land in which there are none of these monuments, there shall be taken the middle distance between the two border towns, one from each State. * * * The important thing is to fix and set out well and most precisely the first monument, because upon it will depend in great part the other ones and nearly all of the operations to such an extent that with the first line at times one can ascertain the series of other lines. One line determines the others, says Gregorio Lopez (Gl. 8, L. 10, Tit, 15, p. 6). So that the first point having been fixed at one end and knowing as it is known that the other end is the mouth of the Motagua, a straight line could be drawn which would form the entire boundary in case the intervening points should not be known. The investigation having been made as previously stated, a record of it shall be made by writing it in a book which shall be carried for that purpose, wherein there shall be noted from day to day the progress that may be made in the manner of a legal proceeding, as was done by the ecclesiastical visitors as bishops, and intendentes magistrates in the visits which they used to make; and all the more should the commissioners do so now, because this operation is to decide many doubts which in the future, one or two hundred or more years from now, when the present and succeeding generation shall have passed away, will rise upon the ruins of time, which swallows up everything. Honduras, perhaps, in days to come, will grow so much that it will no longer fit within its boundaries, and Guatemala may want to increase its present boundaries.

In the above manner you shall continue successively along the frontier line between State and State, seeking on one side and the other either a village or a hamlet or an estate marking the division. A sketch or draft of a plan shall be prepared wherein there shall be noted daily the observations in order to make the final copy subsequently. * * *

In this aspect of his labors, the honorable mediator also has the valuable data and recommendations provided by the report of the Economic Survey, with which Honduras is in accord, subject to the qualifications herein expressed.

VIII.

FINAL CONSIDERATIONS TO BE TAKEN INTO ACCOUNT BY THE HONORABLE MEDIATOR IN HIS RECOMMENDATION OF A COMPROMISE LINE.

In the light of the observations set forth hereinabove, counsel for Honduras, with the approval of her representative, submit to the honorable mediator the following considerations:

1. It has been the common understanding between counsel of the parties, as well as between the respective representatives of the two countries, that this case must be decided according to the uti possidetis

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of 1821, de jure and not de facto. It follows that the honorable mediator should, according to that rule, ascertain the line which in his judgment must have divided the two countries at the time of their emancipation from the Spanish Crown. Counsel for Honduras entertain the hope that to this end the mediator will begin by examining the cédulas of 1563 and 1564, and will conclude therefrom that they do not sustain Guatemala's claim to the Ulua River-Fonseca Gulf line; that upon the evidence submitted by Honduras, the cédula of 1563 was repealed by that of 1564, or if not, that it was necessarily derogated by later cédulas of the Spanish Crown produced by Honduras—at least by those of 1791 and 1818, if not by the other legislative acts of the King of Spain; that Honduras upon achieving independence inherited the jurisdiction of her Governor-intendente over the unorganized coastal territory east of Golfo Dulce (Lake Izabal) as far as Belize; that Guatemala never for an instant prior to 1821 possessed the region east of the Motagua River and up to Golfo Dulce, as Honduras had been in possession of it; and that the Guatemala occupation up to the Motagua River dates from very recent years.

2. If the honorable mediator should adopt the system followed by the Mixed Boundary Commission in 1908–1910, and that of the Economic Survey in 1919, of dividing the disputed territory into sections or districts, he should commence by determining as his starting point, Cerro Brujo—the common boundary point of Guatemala, Honduras, and El Salvador—and Cerro Obscuro as the terminus of the first district. The latter point, with an inappreciable difference, was accepted by the Mixed Commission, as a boundary point between Guatemala and Honduras. Then in order to fix the de jure line connecting these two points the mediator should adopt the actual line of possession drawn by the Mixed Commission, which is substantially the same as that followed in the title deeds issued in the two countries. Having thus fixed the de jure line for the first section, if it should prove objectionable as a compromise line, it could be rectified by finding the most direct line between these two mountain peaks, or else by running it along those streams which should most nearly approximate the legal frontier.

3. For the second section or district the starting point would be Cerro Obscuro above mentioned, thence along the Cerro Las Flores to Llano del Jicaro. This point is suggested as the terminus of the second section as being more definite than the parallel of Copan fixed by the Mixed Boundary Commission as the terminus thereof, and because Cerro Llano Grande indicated by the Economic Survey is in the center of lands surveyed during colonial times as in the Province of Honduras. Besides, Llano del Jicaro is fixed as the dividing line of the two provinces in the Honduran titles to the lands of

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Tapesco y Leona and Jutes and in the Guatemalan title to the Ejidos de San Juan Camotan, measured respectively in 1752, 1722, and 1743. (Honduran Exhibit, printed vol. III, pp. 99, 101, 102, 111, 200, and 201.) There is the further important circumstance that Surveyor Vicente Ruiz Machorro, who measured the first mentioned of these titles, had been commissioned a subdelegate of lands (land commissioner) by the colonial authorities of the two districts of Gracias a Dios (Honduras) and Chiquimula de la Sierra (Guatemala), to measure the border lands of both districts and furthermore that Llano del Jicaro is a boundary easily identified because it runs in the vicinity of the confluence of Quebrada Caparja and the Copan River, near the place where the latter makes a sharp turn to the east.

Counsel for Honduras feel certain that the mediator will find abundant proof that the district of Gracias a Dios, at present composed of the Departments of Ocotopeque, Copan, Santa Barbara, and Cortez, belonged to the Province of Honduras from the time of the conquest, in conformity with the cédulas of 1563 and 1564 (as construed by Honduras); that it continued to belong to Honduras at the time of independence, according to the evidence submitted; that the Copan Valley formed a part of this province and constituted its boundary with Guatemala, and has belonged to Honduras during the same period and since then to the present day, according to the documentary evidence, particularly the judicial evidence (Ibid., pp. 211–255); that the best means of determining the precise boundaries between Chiquimula de la Sierra and Gracias a Dios are the title deeds issued respectively in Honduras and Guatemala, where the lands abut on the frontier, principally those antedating 1821, and those subsequent as evidence of continued possession, such title deeds having been issued by the superior authorities of each Province and confirmed either by the king in person or by the captain general of the kingdom or by the royal audiencia in the king's name, and, after independence, by the Governments of the States or Republics.

If the honorable mediator should come to this conclusion, then in order to draw the line connecting these termini of the second section of the de jure line, he could take the boundaries mentioned in the land titles; but if he should feel that this might give rise to differences and considerable expense, he could adopt the line of possession traced upon scientific considerations by the Boundary Commission acting by common accord in 1908 and 1910. The result of their labors is clearly set forth in the minutes of their meetings; and has been marked out on the respective maps submitted by the parties to this mediation. The line of possession follows in general along the line of the title deeds, and where it departs therefrom it is clearly to the detriment of Honduras, because it

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leaves in Guatemala a part of Sitio del Potrero and the greater portion of Tapezco y Leona, both of which lie legally in Honduras.

Having declared the above de jure line, there would be a basis for determining compensations, if, as seems probable, the mediator should consider this line too irregular, and in parts not sufficiently visible to the inhabitants, and should therefore deem it advisable to suggest a compromise line, either following the course of streams or of clearly distinguishable mountains which should approximate the declared line. The maps filed with the honorable mediator by the parties provide sufficient data for the purpose.

4. In order to fix the de jure line for the third section, the mediator might commence with the end of the preceding section (Llano del Jicaro); thence to Cerro Chaguite, recognized as the boundary line in the title deeds to Ejidos de Camotan in Guatemala and Jutes and Chaguites in Honduras; thence to Cerros Barbasco and Tizamarte, recognized as boundaries between Chaguites, Jute and Pexja (the latter in Guatemala); and from this point, which is also the boundary of the Hacienda of Managua, to the junction of the Quebradas of Sururuin and Las Vegas, where the Sitio Pexja terminates. This is the last tract of land measured on this line prior to independence, Chaguite having been measured in 1736, and Pexja in 1741. (Honduran Exhibits, printed vol. III, pp. 202–210.)

From said junction the honorable mediator has the choice of taking the Sierra Copan to the Motagua River, as mentioned and recommended by Larreynaga and Marure; or of following the boundaries of the Managua Hacienda measured in Honduras in 1885, up to the Managua River, which line Honduras has accepted although more favorable to Guatemala, and thence along said river to the Motagua.

5. In their brief (point VII), counsel for Honduras have set forth the grounds on which they based their conviction that the de jure line of 1821 continued thence to Lake Izabal or Golfo Dulce, and from there along its border and outlet to the sea.

In view, however, of the course of events since independence, and more particularly of the effect of long-continued effective occupation in the adjustment of American boundary disputes (as candidly considered in the present memorandum), counsel for Honduras appreciate that in the third section the honorable mediator may feel impelled here to depart from the line de jure so that Guatemala may obtain sovereignty over the territory covered by its railroads and ports,—always provided that Honduras shall receive equitable compensation. But it is expected by counsel for Honduras, that on the considerations of justice and equity discussed hereinabove, he will recommend the line along the Motagua River to its ancient mouth. Only thus can Honduras utilize the eastern bank on which to pro-

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long its railroad line to the Copan Valley and thus bring about the development of her territory.

6. For further data as to the detailed meander of the line de jure, the honorable mediator is referred to the final memorandum of the Honduran representative. (Note of Aug. 27, 1918, Mediation Record, vol. I, pp. 223–227.)

7. In conclusion, counsel for Honduras deem it advisable to draw the attention of the honorable mediator to the following practical considerations:

(*a*) In order that the joint use of the Motagua River to the sea may be harmoniously enjoyed, the two countries should under his auspices enter into a special protocol regulating the use of the river for customs, police and navigation, and of its waters for agricultural, industrial, and municipal purposes, following the experience acquired in connection with other international rivers. (Supra, p. 22.)

To the extent that the honorable mediator should recommend the Managua or Copan Rivers, the regulation of these streams should also be provided in the special protocol.

In addition, if the mediator should recommend the old mouth of the Motagua—as urged by counsel on the established principles of international law (brief for Honduras, Mediation Record, vol. II, pp. 464–465)—this protocol should make provision for the execution, at the joint expense of the parties, of the works necessary to restore the waters of the river to its old bed.

(*b*) In order that Guatemala may have the exclusive control of the Interoceanic Railroad, which, crossing the Managua River, penetrates Honduras as far as Puente de los Amates, it is suggested to the honorable mediator that a protective zone of 1 kilometer, west of and parallel to said railroad, up to 1 kilometer below the bridge, may be granted to Guatemala.

(*c*) The compensation which Honduras should receive for the territory thus surrendered by it on the western side of the Motagua River and along the Managua River, in order to provide a protective zone for the Interoceanic Railroad, could be granted in all three sections. This will facilitate the selection of natural, stable, and easily discernible boundaries. If complete compensation could not be made in lands, the honorable mediator should devise other equitable forms of compensation, to make up for the difference in the area and the quality of the lands allotted respectively to the parties.

(*d*) One item of the compensation which the honorable mediator could grant to Honduras would be the territory comprised between the Managua and Pexja Rivers, in this case extending the protective zone of the Interoceanic Railway to the latter river. The boundary could then continue along the Pexja River up to the junction of the

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Quebradas Sururuin and Las Vegas, which form two of the headwaters of the Pexja and also an old recognized boundary, as stated hereinabove with reference to the third section.

(*e*) In order the better to determine the proper reciprocal compensations, it would seem advisable, once the line de jure from Cerro Brujo to the sea is declared, to trace the compromise line, beginning at the sea and proceeding then inland.

(*f*) If the recommendations of the honorable mediator are accepted by the two Governments, stipulations of course must be inserted in the resultant convention for the actual demarcation of the boundary recommended. On account of the great expense which would be entailed in following either of the programs alternatively suggested by the Economic Survey for the demarcation of the frontier (repoit, nos. 146–151), counsel for Honduras believe that it would be sufficient that the work of demarcation be effected by not more than four engineers, two named by each of the two Governments, these engineers to work under the supervision of an engineer appointed by the honorable mediator, his appointee to be given authority to make final decision in the field of any differences which should arise between the engineers of Guatemala and Honduras. It would tend to celerity in the demarcation if the American engineer were authorized by the convention thus to preside over the labors of the new Boundary Commission.

ROOT, CLARK, BUCKNER, AND HOWLAND,
Attorneys for the Republic of Honduras.

NEW YORK, *January 28, 1920.*
EMORY R. BUCKNER,
EDWARD SCHUSTER,
AUGUSTINE P. BARRANCO,
Counsel.

HONDURAN EXHIBIT XXVI.

(Filed with Mediator, Nov. 26, 1919.)

[Translation.]

TO THE SUPERIOR BOARD OF THE ROYAL TREASURY OF GOATEMALA.

CEDULA

approving the incorporation in the intendencia of Comayagua which [said Superior Board] ordered, of the alcaldia mayor of Tegucigalpa and all the territory of its bishopric, except the port and military post (plaza) of Omoa, and that the Treasury branch should remain subject to the superintendency general for the reason stated.	On July 24, 1791 De Officio

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The king to the president and ministers of the superior board of the royal treasury of the kingdom and city of Goatemala. By letter of April 2, 1788, you gave account with certified copy of the appeal which Don Juan Nepomuceno de Quesada, being governor-intendente of Comayagua, made to your superior government, setting forth that through what is provided in articles 8 and 9 of the royal ordinance of intendentes to the effect that the several officials of each Province should be considered subdelegate vice patrons of the principal official, and that after its publication the corregimientos and alcaldias mayores should be suppressed as they should become vacant, it appeared to him that in this number should be comprehended the alcaldia mayor of Tegucigalpa, whose Province was subordinate to that of his command, and that it was so united with his Province as well in ecclesiastical matters as in the collection of tribute, payment of salaries, and other matters relating to the royal treasury, that the royal intentions detailed in the said royal ordinance could not be entirely obeyed, if all were not subject to the order of the intendencia, and that for the same reason he considered that the occasion had arrived of reuniting also with the intendencia the district of San Pedro de Sula, which by special order of the late president-governor of your kingdom, Don Matias de Galvez, was added to the commandancy of Omoa, but with the proviso that this should only be for the time that the war should endure; since although the war had ended, he did not represent it [the district of San Pedro de Sula], believing that said commandant did so in order to have said district more in view, at the present day he was forced to request that its reunion be considered as indispensable for the collection of tribute in accordance with the method established by said ordinance, declaring also whether the treasuries of Omoa should be considered subject to the intendencia as established in the district of the Province, in order with this knowledge to make the distribution of the towns and valleys which should pay tribute into the said treasuries, and into those of Comayagua, or whether all should go to these treasuries.

That the docket having been brought to your superior board with the docket relative to the suppression of the corregimientos of Sitiava, Nicoya, and Matagalpa, at the meeting held on January 9 of said year, 1788, you ordered the incorporation in the intendencia of Comayagua of the said alcaldía of Tegucigalpa with all the territory of its bishopric, with the exception only of the military post (plaza) and port of San Fernando de Omoa, where its political and military governor should remain as it had up to then, the treasury department continuing subject to the superintendency general and separated from the Province of Comayagua, in consideration of the fact that said military post (plaza) and Government had always corresponded to the superior government of the kingdom and of the fact that its

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ties with Golfo-dulce, Bodegas Altas, and the royal customs of your capital would not suffer its separation from the said superintendency without leaving exposed to many complications mercantile operations and the operations of the royal treasury which daily occurred in the said port, which order (Providencia) you hoped would merit my royal approval or that I should be pleased to decide what should be my royal wish.

Said order having been considered in my council of the Indies, with what my solicitor general (fiscal) stated as to its meaning and as to what was reported by the office of the auditor general, and I having been consulted thereon on May 27 last past, I have resolved to approve (as by this my royal cedula I approve) in all its parts your said order in respect of being in due form, and in conformity with what is provided in article 3 of the royal ordinance of intendentes of New Spain, and of being thus my will, and that note be taken of this cedula in the said office of the auditor general. Done in Madrid, July 24, 1791.—I, the King.—By mandate of the King, our Lord.—Antonio Ventura de Taranco.—Three flourishes.—Note was taken in the office of the auditor general of the Indies. Madrid, July 30, 1791.—By reason of the occupation of the auditor general, Don Lorenzo de Usoz.—(A flourish.)

A copy in conformity with the original existing in this general archive of the Indies, in shelf 100, box 2, bundle 9.

SEVILLE, *September 19, 1919.*

Approved:

P. TORRES LANZAS, *Chief.*

V. LLORENS, *Secretary.*

[Seal number A. 9344919.]

REPLY BY DR. MARY W. WILLIAMS TO REMARKS MADE BY COUNSEL FOR GUATEMALA IN HIS MEMORANDUM ON THE ECONOMIC SURVEY REPORT, OF DECEMBER, 1919, REGARDING CARTOGRAPHICAL EVIDENCE SUBMITTED BY HONDURAS.

MESSRS. ROOT, CLARK, BUCKNER, AND HOWLAND,
Attorneys for the Republic of Honduras.

EMORY R. BUCKNER, EDWARD SCHUSTER, and AUGUSTINE P. BARRANCO, *of Counsel,*
31 Nassau Street, New York City.

DEAR SIRS: The counsel for the Guatemalan Special Mission, in his memorandum of December, 1919, relating to the Economic Survey Report, makes certain statements intended to discount the evidential value of my report, dated September 15, 1918, upon the carto-

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graphical and geographical data bearing upon the Honduran-Guatemalan boundary question. In consequence, I have prepared the following memorandum by way of reply, and hereby submit it for your consideration and the consideration of the honorable mediator.

MEMORANDUM.

After presenting arguments for a mountain rather than a river boundary between Honduras and Guatemala, the counsel for the Guatemalan Special Mission, in his memorandum of December, 1919, on the Economic Survey Report, calls attention to certain alleged and actual topographical omissions and inaccuracies connected with some of the maps filed by Honduras, as well as with the map made by Byrne in 1886. The deficiencies in the maps by no means escaped the attention of the author of the cartographical and geographical report. In some instances they were specifically pointed out in the description of a given map, and in all cases they were taken into consideration.

The explanation of the inadequacy of the maps as a representation of the topography of the southwestern frontier of Honduras is that this section is mountainous. It is virtually impossible for a traveler, whether from official or private life, to form a correct mental picture of a whole mountain system after traversing merely a small part of it; and the broken ranges, which, in the region in question, run to the northeast, at right angles to the Sierra Madre, as the continental divide is called in Central America, tend to make such an undertaking particularly baffling. The mountains, being largely found in the interior of the land, would, furthermore, be studied by only the occasional traveler forced to cross them; and to him they proved an obstacle to progress.

Rivers, on the other hand, are by their very nature simple and comprehensible; and the streams of Central America were from the earliest times used as highways by Government agents or residents who wished to go from the coast to the interior. The mouths of the rivers also became very familiar to the mariners who visited the coasts; and the upper waters of many of the streams were for long intervals occupied by camps of log cutters.

Since European cartographers as a rule secured the data which they used in drawing their maps of Central America from persons who visited the region to be delineated—there were of course no maps and reports of topographical surveys, with the exception of those of the hydrographic office of the British Admiralty published in the thirties of the last century—it must be very apparent that the drainage system of Central America has since the earliest times been portrayed by the cartographers with much greater accuracy than have the mountains. Even the most modern maps do not depict the latter with accuracy in detail. Therefore, any early map

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maker, who, in the absence of exact knowledge, showed sufficient scholarly discrimination to omit all trace of mountains in representing a region, or to insert only those ranges with reference to the location of which he felt reasonably certain, is worthy of the highest respect.

It was because the writer was aware of the much greater reliability of rivers than mountains as landmarks on the maps that in her cartographical report she stressed the position of the former rather than the latter, with reference to the boundary line. Likewise, since towns make an individual impress upon the mind of the traveler, who is pretty certain to learn what national flag waves over a town through which he passes, a similar emphasis was given in the description of the maps to the position of towns with reference to the boundary. The following extract will illustrate the author's method:

> This map indicates Honduras' western boundary by means of a dotted line beginning at Bodegas on Pyrats Lagoon and running to the southwest, giving Cape Three Points, Gracias á Dios, and the whole of the Guanacos River Valley, in which are Tencoa and Chiquimula, to Honduras. (Note on Bellin, 1754 (?) map, cartographical report, Mediation Record, Vol. II, p. 504.)

Before turning from the question of mountains and their baffling characteristics, it appears relevant to point out that the counsel for the Guatemalan Special Mission himself was unable to describe correctly the position of these topographical features even after they had been accurately represented by cartographers. Please note the following:

> This mountain range at its northern end begins at a point adjacent to the sea coast a little to the westward of Omoa, and extends in a generally southwesterly direction, carrying the names successively of Montañas de Omoa, Sierra del Espiritu Santo, Montanas de la Grita, or Montañas del Gallinero, until it turns directly south under the name of Cordillera del Merendon, and continues in that direction beyond the Salvador frontier, which crosses it near the point on the map called Peña de Cuyahuanca. (Mem. p. 618.)

The fact of the matter is that the frontier of Salvador does not even touch the mountains in question; and much less does it cross them. The frontier line of the State runs generally parallel with the Cordillera system, and to the south of it; and coincides for some distance with the valleys of the Sumpul and the Lempa Rivers. If the counsel for Guatemala had noted carefully the excellent maps made by the engineers of Honduras and Guatemala in connection with the mediation, he would have avoided the error.

The counsel for Guatemala has alleged further cartographical inaccuracy of a political nature (Mem., p. 630). Some of the maps of the late eighteenth and early nineteenth century show Guatemala as bordering upon Nicaragua at the east, through the omission of the Province of Salvador, and, generally, the same maps, fail to

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give Honduras a frontage on the Gulf of Fonseca. In various instances the author of the cartographical report has called attention to this same inaccuracy, and admits that the map in question is weakened as evidence because of it. However, she by no means meant to give the impression that all maps in the collection having the above-described characteristics are inaccurate, which the counsel for Guatemala appears to believe. (Mem., p. 630.) Whether or not such a map is inaccurate depends entirely upon its date. It is probable that the counsel for Guatemala was not aware of the fact—very important in Central American history—that Salvador did not come into existence as a Province, and Honduras did not secure a frontage on the Pacific, until very late in the eighteenth century. According to Dr. Santiago I. Barberena, the Province of Salvador was inaugurated in 1788 (*Historia de El Salvador*, *II*, 397–398, 437–439); and the change in the southern boundary of Honduras was made in or about the same year. (*Ibid.*, 397–398, 434–435.)

The faults of the map makers are, therefore, simply due to the fact that the latter were in some instances behind the times, and represented as true what no longer was so. An inspection of the maps listed in the introduction to the cartographical report (Mediation Record, Vol. II, pp. 487–489) will make it quite obvious that only a very small fraction of the thirty-three—and not sixteen of them as the counsel for Guatemala implies—are erroneous as regards the points in question.

It should be patent in the light of the above-mentioned facts that though the evidential value of a few of the maps submitted is discounted as regards the southwestern frontier of Honduras, they may, nevertheless, throw light upon the boundary line to the northwest, because this section was better known to travelers than the Pacific coast region, and here also the political units had been established since the sixteenth century.

A number of the maps submitted with the cartographical report show no specific boundary line, but the author of the report indicates the approximate position that the line would take—were there one—by noting the position of the provincial names, particularly "Honduras." The counsel for Guatemala infers that the decisions of the writer are arbitrary, and endeavors to prove this by methods that are not compatible with even an elementary knowledge of maps. He not only overlooks such matters as the spacing of letters in the designation of provinces, and the position of the name of one province with relation to that of another, on the maps showing no boundaries, but even fails utterly to take note of what is taught by these details on maps showing specific lines of provincial demarcation. For instance, ignoring the fact that on the Jefferys, 1792, map, the

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name "Vera Paz" is carefully limited to the region west of the Gulf of Dulce, the counsel for Guatemala declares that since the "H" of the word "Honduras" is placed to the right, or east, of the Rio Ulua, the more legitimate conclusion left for the author of the cartographical report was that Honduras was regarded by the cartographer as extending only to the Ulua, and not to the Dulce as the author of the report suggests. That this conclusion is inadmissible will be evident to the honorable mediator if he will glance at the Alzate, 1767, map which gives Honduras a very clear, broad boundary line, but places the "H" of the word "Honduras" nearly one-third of the length of the province of Honduras to the east of the western line.

The counsel for Guatemala was most unfortunate in selecting the Jefferys, 1792, map. Although this edition of Jefferys is unaccompanied by a text, the Jefferys map of 1799 is accompanied by an extensive geographic description, from which a quotation is made in the cartographical report, reading as follows (Mediation Record, Vol. II, p. 509):

> The port of St. Thomas [St. Thomas of Castille, mentioned earlier upon the page], we have just mentioned, is in the large Province of Honduras, where begins a new audience * * *
>
> The Province of Honduras, the most northern of its [Guatemala's] government, comprehends not only all the south side of the bay, which has given it its name, but likewise a great part of the coast to the south of Cape Gracias a Dios; this, at least, is the pretension of the Spaniards * * * [Then follow British claims in the name of the King of the Mosquitos, etc.]

Since the two Jefferys maps under discussion are identical—and were doubtless made from the same plate—it is apparent from the above quoted passage that the writer erred on the side of conservatism when she stated that the Jefferys map of 1792 indicated that Honduras extended only to the Gulf of Dulce.

In this connection it is well to note also that the text accompanying the Laet, 1625, map (Mediation Record, Vol. II, pp. 496–497) and that of Bleau, dated 1664–1665 (*Ibid.*, p. 498), support exactly the interpretation of the appertaining maps made by the author of the report, as regards the extent of Honduras. And a study of the other maps, which show no boundaries and are accompanied by no text, in connection with the author's notes, will make it quite evident that her interpretations in the latter cases are quite as valid as in the preceding.

Another criticism made by the counsel for Guatemala is that on some of the maps submitted "Guatemala is not shown at all." Presumably, the map which is the special offender in this regard is that accompanying Bryan Edward's History of the British West Indies, 1793. The photographic reproduction submitted includes the

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whole map as far as it runs to the left hand; and this part plainly shows the dotted boundary line as starting from the coast between Amatique and the Rio de Guanacos (Motagua) and running south, giving to Honduras that river as well as the Cape of Three Points. The writer fails to see why the fact that Guatemala does not appear upon it should prevent the map from furnishing persuasive evidence regarding the northwestern boundary of Honduras.

In his comments on the writer's fifth group of maps in her cartographical report, the counsel for Guatemala has been inaccurate in construing her conclusions. The passage alluded to is as follows:

> As to the eight maps in the final group, however, with possibly one exception, none of them can fairly be said to support the claim in the report that they give the whole of the Motagua River as the northwestern boundary of Honduras. (Mem., p. 631.)

The caption appearing over the group of maps under discussion reads: "Eight maps giving the lower part of the Motagua River or the whole of it as the Honduras boundary in the northwest." (Mediation Record, Vol. II, p. 489.) Seven of the maps in the class mentioned give the lower part of the Motagua as the northwestern boundary, and only one gives this river as the boundary for the whole of the way. But it is interesting to note that this last map—which the criticism implies is the only one correctly classified—happens to be what is probably the most important map in the whole collection, for it is an official map made to accompany the report of Ramon de Anguiano, governor of Honduras in 1804—a date but seventeen years prior to the attainment of Central American independence.

Notwithstanding the author's statement in her letter prefacing her cartographical report, that she prepared the report in a broad spirit of historical research, the counsel for Guatemala implies also that the requirements of the Honduran case led her to include in her special classification but seventy-four of the eighty-nine maps described in the main body of her report; and that similar considerations induced her to describe, discuss, and present reproductions of but eighty-nine of the hundreds of maps that were examined. The fact that the remaining fifteen maps are frankly described and discussed should have outweighed any inference of a desire to withhold information damaging to Honduras. If the honorable mediator will glance over the descriptions of the remaining fifteen, he will observe that most of them are of a too early date to throw any direct light on the boundary question. The reasons for the failure to include the few maps of later date that were omitted from the classification will be made clear upon a perusal of the notes accompanying such maps.

As for the hundreds of unproduced maps, it is clearly stated in the introduction to the report that the maps presented are representative of the total number examined. Consideration for the hon-

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orable mediator's time as well as the uselessness of virtual interminable duplication made such limitation desirable. It was precisely this desire to make the collection representative of all Central American maps that led to the inclusion of those too early to be of value as direct evidence to the boundary question, as well as the maps whose evidential value must be discounted because of errors already discussed. Far from selecting only those which were most favorable to Honduras' claims, the writer omitted reproductions of two maps which were particularly strong in this regard because they appeared after the report had been put in final shape for filing. These two represented types of maps already included in the report, but had there been any desire to show partiality for Honduras, they would have been substituted for others of a less favorable nature. Furthermore, if there exist any maps more seriously unfavorable to Honduras' claims than two or three of those described in the report, the writer does not know their whereabouts.

In view of the fact that the counsel for the Guatemalan Special Mission laid special stress upon the Byrne, 1886, map, that map should be considered here. In his Memorandum on the Economic Survey Report, is found the following (p. 626):

> From 1886 until 1900 this map stood unchanged, as notice to all the world that the mountain barrier was the western limit of the territorial pretensions of Honduras.

The honorable mediator will doubtless reflect that this map, with equal emphasis, proclaimed to all the world that the Copan and Jupilingo valleys were the possessions of Honduras, and that the boundary line of the Republic ran about four leagues to the west of the famous ruins of Copan, just as stated by Col. Juan Galindo, who examined the ruins in 1835, under a commission from the Central American Government. Mediation Record, vol. II, p. 522.) And it might be added, by the way, that the above-mentioned facts should prevent any surprise that the economic survey commission reported the village of Copan and other neighboring municipalities to be under control of Honduran officials. (Report, No. 129.)

The writer deems it beyond her province to decide whether or not the Byrne map of 1886 is official, as urged by the counsel for Guatemala. (Mem., p. 626.) But assuming, merely for the sake of argument, that it received the sanction of the Honduran Government, the fact still remains that this map comes vastly nearer to coinciding with the extreme claims made by Honduras, to a line to the Belize frontier, than do several Guatemalan maps, whose official character can in no way be doubted, come to coinciding with the extreme Ulua-Fonseca claims. Two of the Guatemalan maps that the writer has in mind may be found in the Map Division of the Library of Congress. The earlier one bears on its face the follow-

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ing legend: "Mapa General de la Republica de Guatemala publicado por Maxmilian Sonnenstern por orden del Gobierno, 1859"; and the later displays an inscription reading thus: "Mapa de la Republica de Guatemala levantado y publicado por orden del Smo. Gobierno por Herman Au, Ingo., 1876, L. Friedricksen y Cia. en Hamburgo." The boundary lines shown upon these maps are virtually identical, and run from the mouth of the Rio Tinto along the mountains approximately as in the Byrne, 1886, map, except that Copan is placed about four leagues to the west of the line.

In fact, so far as the writer is aware, there is not to be found in the whole world a single map indicating Guatemala as extending to the Ulua-Fonseca line; while, as the cartographical report, with its illustrative reproductions, presented by Honduras, clearly shows, there exist numerous maps of an early date, made by impartial foreign cartographers, which support Honduras' claims to the territory as far as Belize.

The counsel for the Guatemalan Special Mission appears to derive comfort from the great diversity of opinion shown by contemporary cartographers with reference to the Honduran boundary, and from the fact that the differences in the collection as a whole—

> are so considerable and various that it has been found necessary to separate these maps into at least five different groups, and a more discriminating classification would add several more. (Mem., p. 680.)

The lack of agreement on the part of contemporary cartographers may be largely explained by the fact that some cartographers were alert and up-to-date and knew well the location of the actual boundary line at a given date, while others tended to copy existing maps which were correct at an earlier time—a fact already pointed out in another connection.

As for the general diversity which made it desirable to group the maps into several different classes, according to the boundaries shown, this involves what is perhaps the most interesting and significant fact disclosed by a careful study of the collection of maps; for, as the author of the cartographical report clearly pointed out in her introduction, such a study shows that—

> in general, the earlier maps place Honduras' boundary farther west than the later ones—that with the passage of time Honduras' western boundary, from a purely cartographical point of view, has retreated toward the east. (Mediation Record, vol. II, p. 489.)

The counsel for Guatemala has not attempted to explain the phenomenon just alluded to—a phenomenon that would be likely to lead an observer to infer that in the course of the centuries Honduras' original boundary line was gradually pushed east by an aggressive neighbor.

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In view of the story suggested by the maps, the inference made by the counsel for Guatemala, that Honduras has continually encroached upon the territory of her neighbor to the west, becomes singularly unjust. The historical fact is the reverse. Guatemala has, since early colonial times, been the strongest political unit in Central America, while Honduras has been one of the weakest, largely because of the persistent interference and encroachments of foreign nations.[1] Any inference of Honduran encroachment is unsupported by either the historians or the cartographers. If the charges against Honduras were well founded, the collection of maps would show the boundary line as moving in just the opposite direction—from the Ulua-Fonseca region toward the west.

The counsel for the Guatemalan Special Mission states that he has neither examined nor produced any maps on behalf of Guatemala, because "for the purpose of this mediation, the legal boundary claimed by Guatemala was conclusively fixed by the royal cédulas of 1563 and 1564, and has never since been changed" (Mem., p. 631).

May the writer be permitted to suggest that the absence of maps substantiating Guatemala's claims may have also proved a persuasive deterrent to the production of such cartographical evidence? Furthermore, is it not reasonable to assume that if the two royal cédulas above referred to actually possessed the evidential value claimed for them by Guatemala, at least one map would have been drawn by the ancient cartographers in recognition of the change which it is professed that the first cédula created, and the one of the following year confirmed? Surely, if such a radical and permanent political transformation had taken place, this fact would not have been unacknowledged by Spanish historians and cartographers, though it might conceivably have remained unobserved by foreign scholars. Yet we find that the eminent Spanish historian, Antonio Herrera y Tordesillas, who was royal historiographer of the Indies, in his *Descripcion de las Indias Ocidentales*, 1601, and in the original maps made to accompany it, not only utterly ignores the alleged Ulua-Fonseca line but gives Guatemala no Atlantic frontage at all, and indicates that Honduras at the opening of the seventeenth century bordered on Yucatan. (See Cartographical Report, Mediation Record, vol. II, pp. 494–496, and appertaining maps.)

The counsel for Guatemala, after considering in some detail the collection of maps presented by Honduras, concludes by declaring all such maps to be irrelevant and immaterial and as without evidential value. In so doing he fails to take account of the fact that in most of the boundary settlements that have taken place in the

[1] The encroachments that the writer has especially in mind here are those made by the British upon Belize, the Bay Islands, and the Mosquito Shore. William, M. W., *Anglo-American Isthmian Diplomacy, 1815–1915*, pp. 1–66, *passim*.

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New World—and even in such important ones as those involving the Maine and New Brunswick and the British Guiana and Venezuela frontiers—unofficial maps have played a part, and in some instances a very important part. It may be added that many of the maps used in such settlements—*e. g.*, the recent Nicaragua-Honduras arbitration before the King of Spain, wherein the underlying treaty was very similar to that in the present mediation—were the handiwork of cartographers represented by the collection submitted by Honduras. In a controversy such as the present one—in which documentary description of the boundary is lacking—a special importance must be attached to *what contemporaries thought were the boundaries of Honduras and Guatemala.* This being true, the opinions of cartographers of international fame can by no means be ignored; and much less can charts and maps made in Central America itself, or from data which were, beyond question, gathered there. The Alzate, 1767, map, the Anguiano Plan, 1804, and the British hydrographic charts all belong to this type. (See cartographical report, Mediation Record, vol. II, pp. 505–506, 510, 521, 522.)

Another obstrusive circumstance that the counsel for Guatemala has failed to grapple with and eliminate is the mere fact that so much cartographical matter favorable to Honduras exists. Though it is entirely true that some cartographers copied from others, a large number of original maps are, nevertheless, to be found in the collection presented by Honduras. Where did the idea originate that Honduras' boundary extended very decidedly farther to the west than it is now acknowledged by Guatemala to do? Why should British hydrographers and Spanish officials, who were familiar with the region, be in general agreement in this respect with professional cartographers of various foreign nations, who, presumably, were not?

Now, it becomes necessary to point out that the counsel for Guatemala appears to have labored under the erroneous impression that through his criticism of the maps he had also disposed of the evidential value of the author's whole report. She is confident that she has shown above that the maps, despite the criticism of the counsel for Guatemala, are still intact as evidence on the boundary question. In addition to the cartographical evidence, there yet remains the very important corroborative and supplementary evidence of the geographical and other writings cited and quoted in the report, which have not been considered by him. This omission might possibly be explained in the case of some of the extracts from ordinary geographies and gazetteers—which show a relationship with the maps—by the assumption that the counsel for Guatemala considered that he disposed of such corroborative material in his discussion of the accompanying maps; but this suggestion will not

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explain the failure to consider the independent non-cartographical evidence of very vital importance included in the cartographical and geographical report.

The material in question includes quotations and citations from the following writings, listed chronologically:

(1) *Carta dirijida al Rey de España*, por el Licenciado Dr. Don Diego Garcia de Palacio, Oydor de la Real Audiencia de Guatemala, 1576 (cartographical report, Mediation Record, vol. II, p. 493); (2) Alcedo, *Diccionario-geografico-historico de las Indias Occidentales de America*, 1786–1789 (*Ibid.*, p. 511); (3) Juarros, *History of Guatemala*, 1809–1818 (*Ibid.*, pp. 514–515); (4) *Diccionario Geográfico Universal*, Barcelona, 1831–1834 (*Ibid.*, p. 519); (5) Letter from Col. Juan Galindo describing the Ruins of Copan, dated Copan, June 19, 1835 (*Ibid.*, p. 522); (6) Stephens, *Incidents of Travel in Central America*, 1839 (*Ibid.*, pp. 536–540); (7) Instructions of 1844 to the Guatemalan boundary commissioner (Mediation Record, vol. I, pp. 248–257); (8) Letter from Hise to Buchanan, 1848 (*Ibid.*, Vol. II, p. 529:

Since Palacio was a judge who traveled about the audiencia of Guatemala in obedience to express Royal orders, his statements are of the first importance. It will be noted that in 1576, but thirteen years after the cedulas to which Guatemala attaches such great importance were issued, Palacio definitely states that Gracias a Dios and Copan are in Honduras. Antonio Alcedo, a native of Spanish America, must also have known whereof he spoke; and yet he believed that Honduras had a right to the territory even as far as the west shore of the Gulf of Dulce. The importance of Juarros's writings as evidence scarcely needs to be pointed out. As synodal examiner of the Archbishopric of Guatemala, he not only had access to all of the governmental records, but had occasion to travel through the audiencia. For the period just preceding independence, Juarros furnishes even more detailed and illuminating evidence for the boundary question than Palacio does for the period following the cédulas of 1563 and 1564. It will be noted that Juarros includes in Honduras virtually all territory to the east of the Motagua River.

On page 2 of his Summing Up of the Boundary Dispute, the counsel for Guatemala implies that Robustiano Vera's Geography, by virtue of its being dedicated to Dr. Policarpo Bonilla—in his capacity of President of Honduras—is given an official character. If such an inference is sound, the fact that the *Diccionario Geográfico Universal* of 1834 is dedicated to the Queen of Spain is of equal importance to the boundary question; and the Honorable Mediator will note with marked interest the significant statement in the *Diccionario* that Honduras, as a province in the Central American Confederation extended to the Gulf of Dulce.

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The testimony furnished by Col. Juan Galindo has been mentioned in another connection (see above, p. 678); but since it belongs to the class of evidence left out of his discussion by the counsel for Guatemala, it seems permissible to emphasize it through again pointing out that Galindo examined the ruins of Copan under a commission from the Government of the Central American Federation, and that he declared specifically in June, 1835, that they were in Honduras, four leagues to the east of the boundary with Guatemala.

The observations made by John Lloyd Stephens, in 1839, while on a special diplomatic mission in Central America, as agent of the United States Government, not only corroborate the evidence furnished by Galindo, as regards Honduras' ownership of Copan, but add the valuable information that the Copan River formed the boundary line at one point; and this point, as the study of the question included in the cartographical report (Mediation Record, vol. II, p. 540) discloses, either virtually coincided with Honduras' "documented line," or lay to the west of it.

The Instructions prepared in 1844 by the distinguished Guatemalan publicists, Marure and Larreynaga, in anticipation of the boundary treaty of 1845, need not be specially considered here. The evidential value of these official Instructions as conclusive upon Guatemala for any boundary farther east than the Motagua River, has been sufficiently discussed and defined by the notes filed by the Honduran representative and by the brief submitted by counsel for Honduras. But the writer may be permitted to observe that Marure and Larreynaga were content to argue for the Motagua River as the boundary, not only as a natural frontier furnished by Providence, but as the frontier indicated by the official records extant; and to remark that they reached this conclusion after an examination and evaluation of the contemporary maps of Arrowsmith, Brué, Rivera Maestre and the Belgian Colonization Co. (Rousseau), which were most favorable to the extreme Guatemalan contention (see their instructions, Mediation Record, vol. II, pp. 250–255).

In 1848, nine years after Stephens visited Copan, Elijah Hise, another diplomatic representative of the United States in Central America, threw valuable light upon the location of the boundary at the northwest. In a letter written to Secretary James Buchanan from "Honduras, Port of Omoa," October 26, 1848, Hise describes the State of Honduras as extending from Cape Gracias á Dios to the Rio Dulce, thus confirming, as regards the latter limit, the evidence contributed in the previous decade by the official Spanish *Diccionario*, which was discussed on page 682 above.

It does not fall within the limits of a reply to the criticisms offered by the counsel for Guatemala, on the author's cartographical and geographical report, to comment upon the persuasiveness of his argu-

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ments for a mountain boundary as against a river line. But it is pertinent to consider the cartographical, geographical, and historical evidence which exists to support the line of the mountains of Omoa, Espirtu Santo, Grita, and Gallinero that is urged by the counsel for Guatemala.

It may be confidently asserted that there is not a single map or geographical or historical work antedating the year of independence of Central America which puts forward this mountain line. All of the geographers or historians, notably Juarros, place the boundary along the Motagua River or farther to the west. As to the maps, none of them indicates this mountain line as the western frontier of the Province of Honduras; and the most recent official map of the colonial epoch extant—that of Gov. Anguiano, dated 1804—in contradiction, designates the Motagua River.

Although some maps of the later colonial period and of the early years of the Confederation show mountains as marking the boundary along part of the western frontier of Honduras, a careful study of these maps in the light of other evidence of a geographical nature will make it apparent that the mountains represented are not those forming the Gallinero-Grita-Espiritu Santo-Omoa chain, or any part of it. The mountains depicted on the maps in question are quite a different chain.

To make this fact evident, the writer desires first to call attention to the detailed map made for the use of the honorable mediator by the engineer connected with the Honduran Special Mission. Upon this map, it will be noted, is represented an irregular line composed of ranges of hills and mountains of varying height which extends from Cerro Brujo to Amatique Bay. Its course is as follows: from Cerro Brujo it runs to Cerro Obscuro; then along the Jupilingo River, in which part of its course it forms the left wall of the Jupilingo valley; next, it crosses the Copan River and proceeds northward to the left of Sesemiles Quebrada (Creek), near the head of which, the Economic Survey report certifies (No. 61), there starts a high sierra which is the divide between the water of the creek and those of Managua River; the line, here formed by the high sierra referred to, keeps to the left of the Managua River and proceeds to the northwest; crosses the Motagua a little above the mouth of the Managua; and continues along the left bank of the Motagua under the name of Mico Mountains.

With the above-described mountain line in mind, it is now desirable to examine certain portions of the instructions drawn up in 1884 by Marure and Larreynaga for the guidance of the Guatemalan boundary commissioner. It will be noted that the point of departure for the surveyors, as suggested by the instructions in question, was to be Tescatempa, or some near-by point. (Mediation

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Record, vol. I, p. 252.) By proceeding along the frontier as directed, the commissioners would eventually arrive at the valley of Copan, which, the instructions state on the authority of Juarros, is "the divisor between Guatemala and Honduras," separating the latter from the department of Chiquimula. (*Ibid.*, pp. 250, 252.) Farther on, the Motagua is the dividing line between the two States. (*Ibid.*, pp. 250, 253.)

Since Tescatempa, as the Rivera, 1832, maps show, is in the neighborhood of Cerro Brujo, three points—Tescatempa, Copan and the Motagua, closely related to the above-described mountain line—are frankly acknowledged by Marure and Larreynaga to form parts of the boundary line. This fact would, of itself, do much towards identifying the mountains shown as forming parts of the boundary lines on some of the maps of the first third of the last century. But the instructions to the Guatemalan commissioners make a further and more important contribution in this regard. They state (Ibid., p. 253):

> Along Copan there passes a cordillera, which commences to the south of Mita, and which is commonly called Merendon,[1] and intersects the Motagua, and extends to the east of the port of St. Thomas, to enter Cape Three Points called Punta de Castilla or Manavique. The dividing line between Honduras and Chiquimula strikes this mountain before it (the mountain) intersects the Motagua, the line passing through the north of the village or hamlet of Chucuyales,[2] and it is a point which should be examined and marked out very scrupulously. This mountain, which the English and French maps call "The Copan," and which is not marked continuously in that of Rivera, forms a landmark toward Sensenti, but not in the rest of its course, for which reason it is necessary that the commissioners shall fix precisely the intervening section.
>
> From the point at Chucuyales, following the mountain to the Motagua, it forms a boundary, and also the river to its mouth in the Bay of Omoa or Honduras.

If the above quotation from the instructions to the Guatemalan commissioners is compared with the mountain line described on the map made by the Honduran engineers and in the report of the economic survey, it will be noticed that both lines start in the vicinity of Cerro Brujo—which is to the south of Mita—and that both pass in the vicinity of Copan and cross the Motagua. This seems to prove the lines to be virtually identical as far as the Motagua.

With this identity in mind, it is well to turn to the early maps showing a mountain chain as boundary for a part or the whole of the distance at the west. Before considering the maps of the nineteenth century, it will be of aid to glance at the following of an

[1] This appears to be an error on the part of Marure and Larreynaga, for the Merendon proper does not start to the south of Mita.

[2] This point, so far as the writer knows, has never been identified in present-day Central America.

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earlier date: D'Anville (1731), Hinton (1755), Kitchin (1762), Speer (1771), Jefferys (1775). Each of these, it will be observed, shows the boundary as running along a clearly-marked range of mountains to the west of the Motagua, and terminating in Manabique Bay, or a little to the west of it. The mountains can be no others than the Mico range above referred to as forming part of the mountain line represented on the map made by the Honduranean engineers as starting with Cerro Brujo. From this it is apparent that at the time when the five above-listed maps were made a strong belief prevailed that the boundary followed the Mico range.

The Brué map of 1816, it will be seen, gives virtually the same position for the line as these eighteenth century maps, but it does not represent the Mico Mountains.

The Thompson-Arrowsmith-Alcedo map, of the same date as the Brué just referred to, is not so valuable as evidence, because the positions and proportions of the Motagua and Ulua Rivers are inaccurate to a marked degree. It is, nevertheless, of interest to the matter under consideration to observe that this map gives a range of mountains as the boundary for part of the distance at the west. And this range is without doubt intended for the Cerro Brujo-Mico line, as is shown from the point in the main cordillera from which it springs, as well as from the fact that, were the Motagua given proper position and length, the line would cross this river.

On the Arrowsmith map of 1826, the mountain boundary indicated forms, in broad outline, virtually the same curve as that made by the Cerro Brujo-Mico line shown on the map of the Honduran engineers, except that it crosses the Motagua too near the mouth of the river. Moreover, it coincides with the cordillera described by Marure and Larreynaga in three respects: it starts to the south of Mita; it crosses the Motagua; and it is called the Mountains of Copan. (Mediation Record, Vol. I, p. 253.)

The curved boundary line represented on the map made in 1829 to accompany the narrative written by Thompson is virtually the same as that on the Arrowsmith of 1826; but no mountains are shown on the later map.

On the Brué, 1832, map is a boundary line which is similar to that on the Arrowsmith of 1826, in that it starts to the south of Mita, crosses the Motagua, terminates at Manabique, and for part of the distance follows the Mountains of Copan. This line, however, corresponds less closely than the Arrowsmith with the Cerro Brujo-Mico chain repeatedly referred to, for it swings too far to the right and crosses the Motagua considerably too low in the course of the river.

The Squier map of 1849 shows practically the same curved boundary line as the Brué of 1832.

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So far as the writer is aware, the earliest maps showing a boundary seriously at variance with the curved line just mentioned—or with a line still farther to the west—are the Rivera maps of 1832, which are Guatemalan in origin. These show the boundary correctly in its southern part, as described in general by Marure and Larreynaga; but in its northern part, instead of crossing the Motagua, the line runs along the right side of the river and terminates in the Rio Tinto.

The map facing page 758 of Squier's *States of Central America* (1858) shows an error closely akin to that made by Rivera; and as it gives more detail, especially with regards to the mountains, the error is made more evident. As in the case of the maps by Rivera, this later map by Squier shows the boundary line as starting near Cerro Brujo on the Salvadorean frontier; and it follows the Cerro Brujo-Mico line for a considerable distance, as is evident from the facts, first, that it includes the Jupilingo River and the Copan ruins in Honduras, and next, that it crosses the Copan River. But in the vicinity of the high sierra described in the report of the economic survey it takes a wrong turn. Instead of passing to the left and crossing the Motagua and continuing along the Mico Mountains, which are plainly marked on the same map, it deflects to the right, following a mountain chain named Espiritu Santo-Grita, and terminates in the Tinto, on the right-hand side of the Motagua.

A study of the most accurate topographical maps of the region in question will reveal the fact that such a mountain line as the Squier map of 1858 depicts has no foundation in fact. The mountain chain beginning at Cerro Brujo—as the line of Squier does—does not terminate at Omoa near the Tinto; instead, it crosses the Motagua, as already emphasized, follows the Mico Mountains, and terminates at Manabique Bay. There seems to be no question but that Squier confused the high sierra of the economic survey report with the Espiritu Santo; for he places the latter where the former belongs, and gives the Copan ruins, with relation to the so-called "Espiritu Santo" range, the position that they should have with reference to the high sierra. The chain of which the true Espiritu Santo forms a part is farther to the east of the Motagua, as the best of the recent maps show.

The writer believes that by the above she has demonstrated that there is no just basis for a mountain boundary line along the Espiritu Santo-Grita-Omoa chain, but that, on the contrary, the least favorable mountain boundary that Honduras would be expected to accept is indicated by the curved Cerro Brujo-Mico line.

In conclusion, attention should be called to the fact that although Squier fell into the serious error above indicated, he was not guilty of the mistake attributed to him in the cartographical report (Media-

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tion Record, Vol. II, p. 527); for he places Copan to the south of the Espiritu Santo Mountains, and not to the west, as the writer states. The author of the report referred to was also incorrect in her assertion that Copan is west of the Espiritu Santo range; for it is to the south, as Squier indicates. The mistakes appear to have occurred from confusion of the Merendon range with the Espiritu Santo. Counsel for Honduras, it should be added, fell into a similar error. (Mediation Record, Vol. II, p. 457, note.)

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January 26, 1920.

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